'7' Jury Overcame 3-Day Deadlock

By William Braden
Special to The Washington Post

CHICAGO, Feb. 19—The "Chicago 7" conspiracy trial jury initially was deadlocked, with four jurors convinced that all seven defendants were innocent, according to a juror who played a key role in the panel's deliberations.

The eight other jurors were convinced that all seven defendants were guilty of all charges, Kay S. Richards said Wednesday night in an exclusive interview with the Chicago Sun-Times.

Miss Richards, 23, a computer operator, said that she was one of the eight but that she served as negotiator between the two groups.

The jury began its deliberations last Saturday.

Miss Richards said the jurors finally voted at 10 a.m. Wednesday that five of the defendants were innocent of conspiracy but guilty of crossing state lines individually to incite riots at the 1968 Democratic National Convention. The jury acquitted two defendants — John Froines and Lee Weiner—on both counts.

Miss Richards said she thought Saturday the jury was going to be hopelessly deadlocked.

"There were two groups," she said, "and each felt they had their own point of view and they wouldn't change it. I went in there with the idea I didn't think we'd get an agreement.

"At first I was a hardliner for finding all seven of them guilty on both counts. And then I went soft. I felt as a responsible juror I had to come up with a solution. So I became the negotiator."

Miss Richards said the jurors took three secret ballots Saturday.

"I'm not sure I remember exactly at this point," she said. "But I think that it was 8 to 4 conviction the first time. Then 9 to 3. And then, after lunch, 8 to 4 again.

"The point is, we were all anxious to go home. And, due to anxiety, one woman in the group of four fluctuated back and forth and would do whatever was decided in order to get home.

"But the way it ended, Saturday night, all four were still saying that the seven were innocent of all the charges."

Miss Richards said the four were all women and the group of eight consisted of six women and two men.

"The problem Saturday was a communications problem," she said. "Many of us had our notions about the evidence, and we were offering a lot of opinions rather than deliberating on the evidence itself.

"Sunday we started to talk about the testimony, and we discussed the evidence less emotionally. But we still didn't get anywhere, and we didn't even bother to take any more ballots. We each knew what the others thought anyway.

"Monday, I sat down with the three women who were really hardliners for finding the seven innocent. And we reread the whole indictment. I was looking for a compromise but before we read the indictment I just talked about their feelings and tried to establish what we agreed on. And from there we decided that something should be done.

"It turned out that the three women thought the law the defendants were indicted under was unconstitutional. I pointed out it was our job to decide whether these men had broken the law, and it was the job of an appeals court to decide if the law was constitutional.

"So we agreed we should not be a hung jury. We had decided now to compromise, and it was just a question of how to compromise.

"Te three said they would never agree to find anybody guilty on the first count—that they all conspired together. And they said they didn't think Froines and Weiner were guilty on either count. They said they would go back to the hotel and think about it.

"Actually, only two of them were really convinced we should compromise. And they said they would talk to the third one."

Miss Richards said the jurors asked to be excused at the dinner hour after the first two days and that they continued their discussions in two groups at night in their rooms at the Palmer House—where the jury had been sequestered since Sept. 30.

"Feelings were so high with the two groups against each other," she said, "we just didn't feel at ease there in the jury room together."

Tuesday morning, said Miss Richards, the three women told her they would consent to find five defendants guilty on the second count but not the first count, and that Froines and Weiner should be let off on both counts.

"They said they still didn't feel the five had done exactly what the indictment stated," said Miss Richards. "But they said if the rest of us would agree, they would consent to the compromise.

"So now the problem was to convince the other seven. And I acted again as the go-between.

"The eight of us discussed it the rest of Tuesday morning and all afternoon. And finally we decided to go back to the hotel again and think about it there.

"Tuesday night at the hotel the other seven in the group agreed to the compromise. They didn't feel it was right, they said, but they would consent and do it.

"Wednesday morning, we came in at 9:30 a.m. The two groups got together and we voted orally. It took us just half an hour to reach a verdict, at 10 a.m., and we sent word to the judge. But we had to wait until about 12:15 p.m. before we were brought into court. I don't know why."

The five defendants found guilty were David T. Dellinger, Rennie Davis, Thomas Hayden, Abbie Hoffman and Jerry Rubin.

U.S. ATTORNEY FORAN
... stressed intent

The Washington Post

AN INDEPENDENT NEWSPAPER · FRIDAY, FEBRUARY 20, 1970 PAGE A30

And Then There Were Five

The jury is the only element that came out of the great Chicago judicial extravaganza — the "trial" of the Chicago 8 or 7 or whatever—with any degree of credit or responsibility. After enduring nearly five months of invective by defendants and their counsel, of bombast by the prosecution and of self-righteous posturing by the presiding judge and after listening to interminable testimony on prodigiously tangled charges, it emerged with a discriminating verdict holding five of the defendants guilty of having crossed a state line to incite a riot at the Democratic National Convention in 1968, acquitting them of a charge that they conspired to organize the riot and clearing two others completely of all charges. For their pains, the jurors were pelted with debris by a crowd of onlookers when they were transported back to their hotel after rendering their verdict—an ominously symbolic ending to a trial that mocked and debased American justice.

The trial, in a federal district court, resulted from a prosecution which should never have been launched for enforcement of a law which should never have been enacted. The law is offensive to American traditions on two counts. It is, to begin with, cast in terms so sweeping and embracive as to be applicable to advocacy in any situation out of which disorder may erupt, provided merely that the advocate came into the state from outside it to deliver his supposedly inflammatory discourse. No one can know with any certainty whether what he says in a volatile situation will turn out later to have been in violation of the law.

The second, and still more serious, defect of this law, in our view, is that it operates to deter expression aimed at arousing men to voice their grievances, even in lawful and orderly ways. It is a law which, as we said of it when it was under consideration in Congress, constricts First Amendment freedoms. There are plenty of local statutes in every state of the union forbidding and punishing disorderly conduct or incitement to disorderly conduct. They should be enforced. Federal legislation in this field is at once needless and repressive.

The Chicago defendants were undoubtedly ringleaders in the demonstrations that resulted in so much disorder at the time of the Democratic Convention. If disorder was their aim, they were immeasurably aided by Mayor Daley of Chicago. The mayor made orderly demonstration impossible for the thousands of young men and women who came to Chicago to express to the convention their distaste for the war in Vietnam; and his police force dealt with the demonstrators so violently as to bear a considerable measure of responsibility for the ensuing violence.

When the defendants came to trial, they openly expressed their contempt for the judicial process. If disorder in the courtroom was their aim, they were immeasurably aided by Judge Julius Hoffman. He neither maintained effective control in the courtroom nor manifested the detachment and impartiality which are the requisites of judicial authority. Given the character of the prosecution, it was perhaps impossible to do so. American experience with mass sedition and conspiracy trials suggests that they invariably turn into travesties of justice. Appellate courts will now have to weigh the complicated proceedings at Chicago and try to make a little sense out of them. Perhaps the best lesson the country can learn from this unpleasant experience is to avoid any repetition of it.

5,000 March in Boston In 'Chicago 7' Protest

BOSTON, Feb. 19 (UPI)—About 5,000 chanting young persons staged a march and rally in downtown Boston during the afternoon rush hour today to protest sentences handed down in the riot trial of the "Chicago seven."

Helmeted police, swinging riot sticks, scattered a splinter group of 1,000 throwing rocks and bottles on Boston Common after an orderly hour-long protest at City Hall Plaza in the government center.

The police went into action after the smaller group gathered at Park and Tremont streets and hurled stones through several bank and store windows. Officers made two brief charges at the demonstrators. Two policemen were hurt and several demonstrators were beaten. There were no arrests.

The young people gathered at Boston Common and marched to City Hall Plaza after police blocked off for them the quarter-mile parade route.

The demonstrators—chanting "power to the people" and "Ho, Ho, Ho Chi Minh"—walked peacefully arm-in-arm behind a green sound truck to the plaza. Some carried Vietcong flags. They listened in an orderly manner to speeches and sang protest songs for about an hour before organizers told the group to disband.

Leaders of "The Day After" committee, sponsors of the demonstration, called on the crowd to remain orderly. "If you see somebody with a rock, surround him, don't let him throw the rock," one leader said.

The marchers carried signs and effigies of Judge Julius Hoffman, who presided over the raucous 20-week trial in Chicago and handed down contempt sentences against the seven defendants and two trial lawyers.

One effigy depicted Hoffman's head on the body of a pig and another showed a pig in flowing robes. The pig in the robes was burned at the plaza.

When the demonstrators broke up, about 1,000 headed back down Tremont Street to a subway stop on the Common, breaking windows in several buildings and touching off the brief confrontation with riot-ready police.

Meaning of Rhetoric Disputed

'7' Trial: A Question of Men's Thoughts

By William Chapman
Washington Post Staff Writer

CHICAGO, Feb. 19—"The thought of man is not triable," said an English judge during the Wars of the Roses, "for the Devil himself knoweth not the mind of man."

Had the worthy jurist been in Judge Julius J. Hoffman's courtroom for the past five months he might not have been so sure.

For the Great Chicago Conspiracy Trial was in large measure a trial of minds, or more particularly what lay in the minds of seven men when they spoke.

Perhaps more than any other case in recent history, it was a trial of words and rhetoric and what men meant when they spoke them. The "Chicago Seven" were tried as much for intending to do something wrong as for actually doing it.

To pluck one from thousands of examples, what did defendant Thomas Hayden mean that hot afternoon in August, 1968 when he declared at the Grant Park band shell: "If blood is going to be spilled, let it be spilled all over the city."

The government contended he meant that radical street fighters should spread out into Chicago's Loop, pillaging and burning and fighting with police.

Defence Argument

The defense, however, argued something totally different—that Hayden was warning his friends, some of whom had just been clubbed by police, that they should not be trapped in the park for another bloody encounter.

Such ambiguities and conflicting interpretations are strewn through the record of the trial that ended Wednesday with a verdict that five of the seven men crossed state lines intending to cause a riot at the 1968 Democratic National Convention. Two others were acquitted and all seven were found innocent of conspiracy.

Words and the intent behind them played such a prominent role because of the law under which the seven were tried. The 1968 act requires the government to prove the defendants both intended to cause a riot when they came to Chicago and that they committed acts to carry out that intent.

Law Held Needless

John Doar, a former assistant attorney general, once testified that such a law is unnecessary because every state has an inciting-to-riot statute that would be easier to prosecute. It would be literally necessary under the federal law, he said, to prove what the accused thought before coming to a potential riot situation.

News Analysis

Applying that argument to the "Chicago Seven" trial, evidence against one key defendant, Rennie Davis, is a case in point.

In an ordinary riot trial, a jury would consider this sort of testimony: A police witness testifies that Davis was at the corner of La Salle and Clark Streets near Lincoln Park encouraging a crowd to fight. But a defense witness later says that he saw Davis many blocks away at that moment. The jury would then decide whom to believe.

But trying Davis under the federal statute brings other, more remote testimony into equal prominence. An informant testifies that months before the convention he hears Davis discussing the possibility of bringing canisters of a chemical debilitating agent to the convention for assaults on police. Davis denies he said it.

No Evidence

No evidence is produced to show that Davis ever used a chemical agent in Chicago. But in the view of the prosecution, the alleged conversation is evidence that Davis intended to cause havoc when he came to the city.

The record is filled with such examples of "intent" to do things that never happen. There was talk, government witnesses said, of "seizing the Hilton Hotel." It never happened, the prosecution acknowledges, but the words show that chaos was on the defendant's minds.

The case of David Dellinger, at 54 the oldest of the defendants and a veteran pacifist, is more curious. The prosecution relied on two speeches he made—one in San Diego before the convention and one at the band shell in Grant Park not long before the great violent confrontation at Balbo Street and Michigan Avenue.

In San Diego, according to a television cameraman who worked part time for the government, Dellinger urged a crowd to burn draft cards, go to jail or "do anything possible to stop this insane war." Then he said, "I'm going to Chicago where they may be problems."

That was to establish Dellinger's intent. At the band shell during convention week, the government argued, he committed a specific act that completed the case against him.

Outlined Alternatives

Actually, Dellinger said nothing directly inciting on the band shell, the government acknowledged. He outlined for the crowd two possible alternatives it could take—sit quietly in the park or participate in a nonviolent march on the convention amphitheater. Others, Dellinger said, might favor another "alternative," but he did not discuss it.

Instead, other speakers — none of whom was indicted — came to the microphone and urged direct action, such as moving out into space occupied by police, and used inflammatory language.

But, the government argued, by mentioning that other "alternative" and allowing other men to define it in terms of aggressive action, Dellinger was committing the act that completed his crime.

"He doesn't say what it (the alternative) is and he doesn't say he knows what it is," Schultz told the jury. Dellinger was behaving as a "ventriloquist," charged U.S. Attorney Thomas Foran.

People will argue for decades over what really was in the minds of the five convicted defendants who now face prison terms of up to five years and fines of up to $10,000.

The government undoubtedly was correct when it charged they intended to "humiliate" the Democratic Party and the Democratic process. Whether they intended to cause a riot in doing so is the important legal question—and 12 jurors have agreed that they did.

There is another theory—that they came to Chicago for a confrontation which they believed inevitably would invite violence from a tense city and its police. That is generally the verdict of the famous Walker Report, which attributed the violence in large part to a "police riot."

It may be that author Norman Mailer provided the most revealing testimony when he recalled on the witness stand defendant Jerry Rubin's scenario for convention week.

In December, 1967, Mailer said, Rubin described plans to bring 100,000 people to Chicago, believing that "the presence of all those people would so intimidate and terrify the establishment that Lyndon Johnson would have Party and the domocratic armed guard.

"The beautiful thing about it," Mailer quoted Rubin as saying, "is we won't have to do anything ourselves. The Establishment is so full of guilt they'll do it all themselves. They won't be able to take it."