

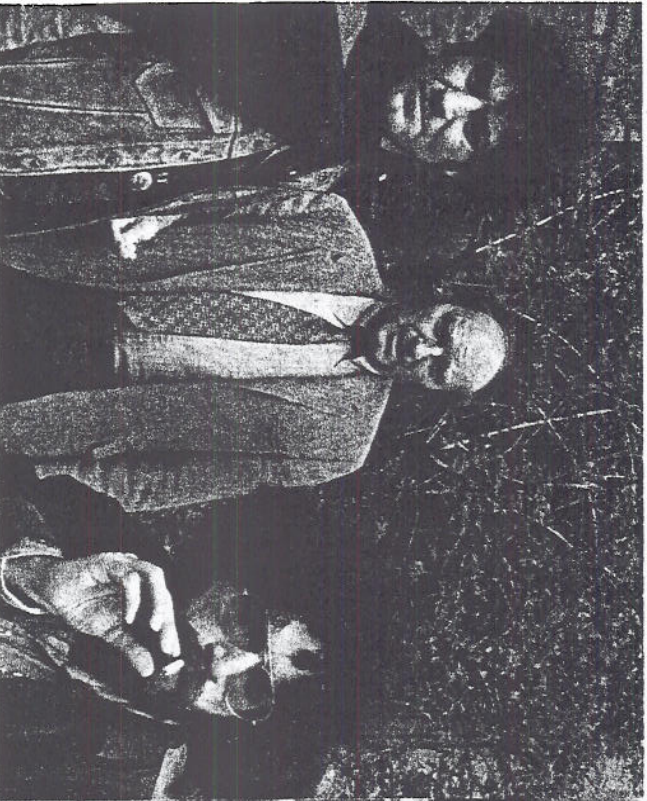
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BOOK WORLD

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Below, left to right: Abbie Hoffman, David Dellinger, Lee Weiner; top left: Bobby Seale; top right: John Foinas, Rennie Davis; bottom left: Jerry Rubin; bottom right: Tom Hayden



The trial of the Chicago Eight

THE BARNYARD EPITHEM AND OTHER OBSCENITIES: Notes on the Chicago Conspiracy Trial. By J. Anthony Lukas. Drawings by Irene Siegel. Harper & Row. 108 pp. \$4.95; paperbound, 95¢.

THE GREAT CONSPIRACY TRIAL: An Essay on Law, Liberty and the Constitution. By Jason Epstein. Random House. 430 pp. \$7.95.

TRIAL. By Tom Hayden. Holt, Rinehart & Winston. 168 pp. \$4.95; paperbound, \$1.95.

By Jon R. Waltz

As long as I live, I shall never forget the trial of the "Chicago Eight," much of which I observed. It was, fitfully, a supreme drama and, despite the hopes of watchers harboring the most diverse motivations, a supreme disappointment. It was dramatic, now and then, because almost everyone involved in it wanted it to be and knew how to make it so. It was disappointing to those of us who want our burlesques in theaters and our justice in courtrooms (not the other way around) be-

Jon R. Waltz, a professor of law at Northwestern University, took part in pretrial efforts to test the constitutionality of the statute under which the Chicago Eight were prosecuted.

cause it contributed nothing to the law and not much to politics. And, hearsay to the contrary notwithstanding, it was not really good entertainment, either serious or absurd, even for the most perverse of onlookers. Its drama was repulsive.

If this trial (which has come to be called the Conspiracy Trial—as though we had never invoked that wretched concept before, for want of something solid, and never would again) was not good theater it nonetheless had its passages of almost unbelievable drama. They were imbedded in a litigation in which the evidence was for the most part tedious, especially the government's part. To coin an Agnewism, if you've seen one undercover agent, you've seen them all. As the prosecution called to the stand one informer after another to offer up the small product of his deceit, a bored press corps fell to speculating about what sort of man would be attracted to that line of work. Then suddenly the Black Panther defendant, Bobby Seale, would hurl some shocking epithet at the outraged judge, or Abbie Hoffman would act out whatever clownish role he had devised for the day, and the picture of American justice would shatter into fragments. At these moments I, a man of law in the awkward position of knowing and respecting the trial judge, the U.S. Attorney and the chief defense counsel, could only cringe and, on one occasion, dis-

cover that a grown man can care enough about such an abstraction as the law to weep at seeing it tortured.

If the bizarre is theatric and if prosecutions of men for foolish thoughts are the raw materials of stagecraft, then there was drama enough in the trial of Davis, Dellinger, Froines, Hayden, Hoffman, Rubin, Seale and Weiner, and when it burst through the artificial calm of the courtroom it did so with a withering intensity. There was sufficient drama, certainly, to inspire a rash of books about their trial, if only because half the courtroom was packed by some of the best journalists in the nation. The books are coming along now, but they are in their ways as disappointing as the trial was in its special ways. I think the books, like the trial itself, will leave people with an uneasy feeling, nothing more.

The difficulty is that the drama of this trial, when it came, was so searing (a gagged and shackled defendant in a free speech case?) that carefully written narrations can never adequately convey it to those who were not members of its audience. Since the trial of the Eight could not be video-taped so that more than a handful of people could know what actually went on during this grotesque exercise, I believe that those who want to know the case, and feel it, may have to wait for some yet unwritten poem or play.

So far the most ambitious (Continued on page 3)

(Continued from page 1) effort is editor Jason Epstein's. In *The Great Conspiracy Trial* he employs the method constructed by John Kaplan and me in our dissection of the Jack Ruby trial: He is at pains to place the trial in historical perspective, and he interrupts the factual narration now and again to explain in detail some applicable legal principle. Epstein has done his homework well. He has detected the discouraging parallel with the 1886 trial of the Haymarket Square anarchists. He has gotten good legal advice; his discussions of the law are uncommonly accurate. He has dug out all the little useless details that signal a first-rate reporter: He knows where Judge Julius J. Hoffman got the green-shaded lamps on his bench, he knows that William Kunstler's *Who's Who* biography is a few lines longer than the judge's.

Epstein has a nasty knack for description, too. Chief Judge William Campbell, who oversaw the indictment of the Eight, looks "as if he had been too loosely assembled, like a moose in judicial robes" and Julius Hoffman was "at once rigid and dainty, like a masked Japanese actor." Going deeper, Epstein has perceived the strengths and weaknesses of the trial's participants. For example, he soon saw, as others did, that in his courtroom representation of his clients William Kunstler did very little, not very well. Epstein's account is smooth and slick. It catalogs the evidence, it counts everyone's wants—but it illuminates the motives of almost no one. That is its fatal flaw, because the trial of the Chicago

Eight was more than anything else a bewildering drama of motives.

As its title suggests, J. Anthony Lukas's book is a collection of impressions. It is regrettable that he did not undertake something more. Lukas, covering his first important trial for *The New York Times*, has a superlatively ear: he is at least part poet, part playwright. In one-quarter the number of printed pages he cuts closer than Epstein to the nuances of aim and motive that slithered through this case.

Lukas knows, for instance, that Abbie Hoffman is not a real person, that he is instead a myth packaged and sold to television by Abbott H. Hoffman, a psychologist from Worcester, Massachusetts. And so Lukas preserves Hoffman's lines as carefully as he would Mae West's or Charlie Chaplin's or Spiro T. Agnew's. Thus it was Lukas who overheard the defendant's mock-serious comment that one of Judge Hoffman's rulings was the worst he'd heard "in all my years on the witness stand." And it is Lukas who reports defendant Hoffman's admonition to his wife as he was being taken off to prison: "Water the plant." But not even Tony Lukas knows how long it took Hoffman to compose his last one-liner.

Lukas draws good portraits of all the defendants, and he is not easily conned—even by such artists as these. His book shows how he knows that men like Seale may have "charisma," as prosecutor Thomas Foran said after the trial, but that they also mean it when they shout, "... tangle with the blue-helmeted _____ and kill them and send them to the morgue slab." Indeed,

Lukas is adept at separating the hard fact of a Bobby Seale's radicalism from "the empty clang" of some of the other defendants' rhetoric. And if Epstein understands that Kunstler was not a very good defense lawyer in this case, Lukas comprehends that Julius J. Hoffman was a consummate prosecutor.

It is quite amazing how much Lukas can convey in brief compass. It takes him only two sentences to identify the reason why the Chicago Eight, despite their persistent efforts to giggle at their own funeral, seemed simultaneously pathetic and desperate. Lukas says:

After all, they were an older generation—most hovering about thirty, one fifty-four.... Precisely because they were now almost elder statesmen of the New Left—regarded as irrelevant by some young radicals—they could not afford to be left behind.

Tom Hayden's frantic book proves the accuracy of Lukas's remark. It is not about his trial at all. It is simply a printed tantrum. Its exaggerated rage, its wild generalizations cannot hold a place for Hayden. The nation's young people, unlike the nervous old men who designed the Chicago trial as a sort of Final Solution to the problem of dissent, have a genius for isolating those whose response to adversity is to go berserk. They cannot be deflected from this process by Hayden's invitation to join "the politics of dope, sex, and spontaneous expression." This is so because most of our young people, like J. Anthony Lukas, know self-serving nonsense when they hear it.