

# The Jury's Verdict on Protesters

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THE RIGHTS GUARANTEED to all Americans by the First Amendment are, without doubt, both the most important and most fragile aspects of this nation's political and constitutional system. The rest of American life revolves around them. These rights—freedom of speech, press, religion, assembly and petition—need to be guarded constantly lest they slip away. So, it is with some trepidation that we approach the verdict of a jury, returned last week, that awarded about \$12 million in damages to some 1,200 persons who were arrested almost four years ago during a protest against the war in Vietnam. The rightness of the finding that these protestors deserve some compensation for violations of their rights seems indisputable, morally if not legally, but the size of the compensation awarded seems to us to be excessive.

It may be worth recalling what the first week in May of 1971, when these protestors were arrested, was like. It began on Sunday with a sweep by police through an illegal encampment near the Mall. Monday brought the May Day demonstration with its threat to close down the city, and with the sirens, the overturned cars, trucks and garbage cans, the tear gas and the arrests that many of us still remember vividly. On Wednesday of that week, some 1,200 of the demonstrators went to Capitol Hill where they had been invited by some members of Congress to petition the government for redress of what they considered to be grievances. The police put a stop to that meeting on the steps of the Capitol, breaking up a speech by one member of Congress and carting some of the 1,200 or so demonstrators off to jail.

We thought then, and we know now from other court decisions, that the action of the police in breaking up

the meeting was illegal. The demonstrators had a First Amendment right to petition their government and the speakers had a First Amendment right to make their speeches. The police had no right to interfere.

Thus, the classic problem arises. How can those whose rights were abridged be compensated and how can future abridgements of this kind be made less likely? The jury which heard this case—and faced this issue—seems to have concluded that the best compensation and protection is the award of heavy monetary damages. The jury may be right; we doubt that the police will again break up a meeting on the steps of the Capitol unless there is substantially more provocation than this particular demonstration produced. But the size of these awards—they average out to about \$10,000 for each person arrested—seems to us wholly out of proportion, and grotesquely so.

Another aspect of this verdict that troubles us is that, as usual, it will be the taxpayers of the District of Columbia who will pay all, or most of, the bill. There is something wrong with a system in which the damages for wrongs are assessed against innocent bystanders who had no control over the events which produced the wrongs or, even, over the officials of government who made the decisions to inflict the wrongs. Somewhere along the line, perhaps, this factor can be brought into the case. Undoubtedly, the jury's verdict will be appealed—there are legal issues involved as well as monetary ones—but if the verdict should survive intact, the protestors might want to consider contributing some part of the fruits of their victory to a worthwhile project in the District. They will have made their point—at the unavoidable expense of this city's taxpayers.