

# Mayday and Playboy

By William Safire

WASHINGTON—In May, 1971, the hard core of the militant protesting set descended on the nation's capital, determined—as its leadership put it—to “stop the government” by bringing auto traffic in Washington to a standstill.

These rioters were not gentle souls carrying candles, but largely the toughs and crazies who marred the peace movement. As they proceeded to slash tires, terrorize motorists and pedestrians, and roll cans of garbage into the streets, the District of Columbia police moved to prevent anarchy.

Unlike the reaction in Chicago in 1968, there were no police charges to crack skulls; nor was there any panicked use of firearms as in Jackson

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State or Kent State. Instead, the D.C. police rounded up some 14,000 of the rampaging terrorizers and made them guests of the city in a football stadium overnight.

The real threat of mob rule had been averted with a minimal application of force. The civil liberty of the law-abiding citizen to walk on a public street or drive to work had been protected.

However, in making “mass arrests,” the police had infringed upon the civil liberties of the demonstrators. Under our system, arrests for other than individual acts are wrong; a man cannot be jailed for what the man next to him in a crowd may have done (unless we apply the conspiracy statutes). Quite rightly, the local courts threw out the arrests as illegal and the Mayday tribe went home, never to be heard from again.

Until now. Not content with the way the police had protected the civil liberty of most Washingtonians and the courts had then protected the rights of these mass-arrested, the American Civil Liberties Union sued the taxpayers of Washington for damages to those arrested, and one of our sensitive local juries just popped for \$12-million.

Twelve hundred of the demonstrators will now each receive about \$10,000 for the indignity suffered, and former full-time demonstrators all over the country are coming out of the woodwork to make their claims. This decision, unless reversed on appeal, will turn justice on its head.

But no editorial cannons boom; since the forces of “repression” are trounced, the award of ten thousand dollars to each of these participants in an effort to plunge a city into anarchy is met with equanimity. Who dares to shortchange the new heroes? Ah, says the A.C.L.U., but think of the principle: Local governments will quail before making any more mass arrests. That is simply not so. If the

forces of law erred, as they undoubtedly did, official reprimands ought to have been sought, new regulations to meet such a situation proposed and debated. But that would have required hard legal and political action.

If it is difficult to punish the law, and unpopular to punish the provocateurs of repression, who is there to punish? The answer is clear: the taxpayers.

The local citizen in the District of Columbia who was forced to endure a night of terror now must pay for the entertainment in \$12-million out of the General Treasury to a group of those who threatened that terror. Perhaps the protestors payoff—Mayday's payoff—can be squeezed out of day-care centers or policemen's salaries.

Civil liberty cannot stand many more such victories that stand justice on its head. The A.C.L.U., quick to defend the fashionably disreputable, is slow to react to the clear and present danger of “the new torture,” far more important to the cause than yesteryear's demonstrations. Which takes us from “Mayday” to “Playboy.”

Recently, a woman employe of Hugh Hefner, Playboy publisher, was convicted of a drug offense and given a “provisional sentence” of fifteen years. If she had told the prosecutors what they wanted to hear—obviously, by involving a prime publicity target—she would have been treated leniently. If not—she faced a lifetime in jail on a minor charge and a first offense.

What clearer invitation to perjury can there be than such a “provisional sentence”? It is one thing to give a cooperative witness a break, entirely another to threaten to let a defendant rot in the slammer until he or she tells the story the prosecution wants.

The woman who worked for Playboy, Bobbie Arnstein, committed suicide under the new torture. We don't know all the facts in that case, but in terms of relevant principle, isn't it more important for the A.C.L.U. to try to stop increasing use of a modern rack by prosecutors and judges across the nation than to belabor the point about mass arrests that the courts made cogently four years ago?

Some sense of proportion is needed. Protecting the right to protest is necessary, but carrying it to the extreme of lavishing great bundles of the public's tax money on aggrieved protesters is an excess of zeal that is against the public interest.

In the Mayday case, civil libertarians won their case and justice has miscarried. In the Playboy case, civil libertarians have not even come to grips with what the case is about, as justice again miscarries. Perhaps the jubilant young lawyers who ripped all the rest of us off for \$12-million should give that some thought as they seek to press money into the hands of the crew who came to slash a tire for peace.