expressive of feelings for which there is as yet no language.

(Part of the emphasis on "obscenity" was of course through deliberate courtroom deceit by police witnesses who acted "ashamed" to repeat our words in the presence of the jury. But the deceit may have reflected a reality. Many policemen are vulgar with prostitutes, black prisoners and fellow officers, but "pure" towards their families, priests and judges. One Chicago psychiatrist told us of several cases where police wives filed for divorce because their husbands would not even make love with them. They seem to regard women as either virgins or whores. This split life reflects a fear of "permissiveness" that is very much present when the police smash heads. They do it with the horrible excitement of children squashing bugs.)

Filtered through the mind of the police agent, language becomes criminal. The agent is looking for evidence; in fact, he has a vested interest in discovering evidence, and begins with the assumption of guilt. Any reference to violence or blood, by an automatic mechanism in the police mind, means offensive attacks on constituted authorities. Our language thus becomes evidence of our criminality because it shows us to be outside the system. Perhaps our language would be acceptable if it were divorced from practice. Obscenity always has been allowed as part of free speech; it is the fact that our language is part of our action that is criminal. A jury of our peers would truly have been necessary for our language to have been judged, or even understood. Or at the very least, our middle-aged jury should have heard the expert testimony of someone who could partly bridge the communication gap.

Example: In July 1968 I gave a speech about the Vietnam war, most of which was an analysis of how the bombing halt and the peace talks were designed to undercut the anti-war movement. Towards the end I said that we in this country might have to shed our blood, just as the Vietnamese have shed theirs, if we were really serious about identifying with their suffering. I said further that the U.S. was violating its own laws in order to carry on the war and that it would be necessary for the protest movement to disregard the conventional rules of the game if it wanted to be effective. The FBI informer present at that meeting was from suburban New Jersey and was paid $10 plus expenses for attending meetings. He originally became an informer, he testified, at the request of a neighbor, an FBI agent, while they were chatting at a Little League ballfield. Through the ears of this agent, my speech was "the most inflammatory speech I've ever heard in my life." He testified (sincerely, I'm sure) that I had called for "shedding blood" and "breaking rules" in Chicago.

Example: Police agent Tobin was following Rennie Davis on August 27, the first night the Chicago demonstrators stayed all night in front of the Conrad Hilton. At that time, Rennie had an impromptu sidewalk meeting with the deputy police superintendent, during which they agreed that people would be allowed in the park after the 11 P.M. curfew. Tobin testified that Rennie made a defiant speech 15 minutes after their meeting to the effect that "the park is ours, stay in the park." Unfortunately for officer Tobin, his own grand jury testimony had Rennie saying, "we *have* the park." The slightest change of words had completely altered their substance.

Example: The government thought it highly incriminating when Norman Mailer testified that Jerry Rubin told him the presence of thousands of young longhairs in Chicago would "intimidate the Establishment." On cross-examination, Mailer retracted the word "intimidate," declaring it was impossible to recall words exactly; that Jerry probably wouldn't use a word like that, he would say something like "freak out." Mailer admitted that "intimidate" was more a word to his own liking because he had a bullying personality. "Words are nothing if not their nuance," he told the judge.

Len Weinglass stated the issue perfectly in his summation by quoting a passage from Matthew:

> Think not that I am come to send peace on earth
> I came not to send peace, but a sword
> For I am come to set man against his father
> And the daughter against her mother
> And a man's foes shall be they of his own household

As Len pointed out, a Chicago-style undercover agent listening to this Biblical declaration probably would be left with the impression that Matthew had advocated the use of a sword against fathers and mothers. In fact, Christ's very existence—the idea he embodied—was sufficient to provoke the Establishment into violent over-reaction.

Finally, the conflict of identities always involved the racism of the court towards Bobby. This showdown contained all the same elements—internationalism, culture, sex, language—but in a special framework that Eldridge described in *Soul on Ice.* The judge was the classic Omnipotent Administrator and Bobby his Supermasculine Menial. The sex and violence of the Menial are feared (Foran said Bobby was the only defendant who definitely "wasn't a fag"!). But even more threatening is any attempt by the Menial to assert his mind, to achieve power over his own life. The more the Menial asserts his ideas, Eldridge says, ". . . the more emphatically will they be rejected and scorned by society, and treated as upstart invasions of the realm of the Omnipotent Administrator. . . . The struggle of his life is for the emancipation of his mind, to achieve recognition for the products of his mind, and official recognition of the fact that he has a mind."

There is no better way to explain why Hoffman continually and emphatically refused to let Bobby represent himself. "The complexity of the case makes self-representation inappropriate," the Administrator intoned.

[IV]
Their Identity on Trial

PUTTING OUR IDENTITY ON TRIAL caused them to expose their own.

Normally in America oppressors appear to be flexible, even friendly persons. Only when their power is threatened are we given a glimpse of the paranoia, the rigidity, the violence at their core. This threat to power can occur with little or no provocation from those whom they oppress. The mere fact that the oppressed are becoming conscious of their own needs is enough to shake any system which for its maintenance depends primarily on atti-

tudes of conformity and submission.

The American system, perhaps more than any other, controls people through manipulation rather than force. Advertising, the mass media, schools, electoral politics, the church, all serve to create a belief that this is the best of all possible societies, that no alternative ways of life are really achievable. Blacks, the Cubans, the Vietnamese are all shattering the image that the world is one-dimensional, and now even white youth is creating a dimension of its own. In this conflict, our identity itself is the alternative, reaching people on a deeper level than rhetoric or blueprints ever could. We are living proof that life can be different. Our very existence, therefore, is a threat to the social order. Our appearance, because we strip away all illusion, produces the total revelation of our oppressors as well.

> . . . It was Rubin's view that the military-industrial establishment was so full of secret horror and guilt that they would crack at the slightest provocation. . . . The presence of 100,000 young people in Chicago at a festival with rock bands would thoroughly intimidate and terrify the Establishment, particularly the Johnson-Vietnam war establishment, that Lyndon Johnson would have to be nominated under armed guard . . . and Rubin said: *I think the beauty of it is that the Establishment is going to do it all themselves, we won't do a thing. We are just going to be there and they won't be able to take it. They will smash the city themselves, they will provoke all the violence . . .*
>
> —TESTIMONY OF NORMAN MAILER

This may be why we have been confronted through the years with a system which seemed sophisticated until the very moment when sophistication was needed most: the moment of showdown. Then it produced true-to-form villains: Bull Connor as the southern cop, Clark Kerr as the bureaucratic administrator, Robert McNamara as the military computer, Lewis Hershey as the draft man, Lyndon Johnson and Richard Nixon as the politicians. The system is flexible, even benign, when it can afford to be, but its real protectors seem to step forward at every moment of serious crisis. These villains, then, are not isolated and unique examples, but socially necessary types.

[A HANGING JUDGE]

FROM THE VERY FIRST MOMENT of our arraignment, we realized that our fates were to be decided by a madman, Judge Julius J. Hoffman. Some say that if Julius Hoffman did not exist, we would have had to invent him. This assumes wrongly that we enjoy being held under irrational domination. More accurately, we could say that a country invents the authorities which it deserves. Of course, not everyone in America deserves Julius J. Hoffman, but he does represent perfectly the decaying aristocracy of dinosaurs we see everywhere, directing universities, corporations and draft boards. Though he is slightly older, he is only a senior member of the same imperial generation. He is a younger man, for example, than the Speaker of the House of Representatives, and about the same age as ten of their 21 committee chairmen. He is younger by ten years than the judge who presided at the

trial of Dr. Spock. He is an anti-Semitic midwestern Jew, a man who married into wealth, a director of the Brunswick Corporation, which manufactures materiel for Vietnam, a resident of Chicago's exclusive Gold Coast.

Perhaps the most striking fact about Julius Hoffman is that he has carried on arrogantly for 15 years without censure from the government or the legal profession. Virtually every member of the Illinois bar with whom we spoke called Judge Hoffman a "hanging judge." Yet they accepted him without protest. A University of Chicago law professor, writing after the trial, said it was "common knowledge that this judge callously and insistently degrades and provokes the lawyers who happen to appear before him unless they come from the office of the United States Attorney. . . ."

During the trial, we had occasion to see firsthand the groveling of attorneys who appeared for matters as simple as a postponement. Literally bowing before Judge Hoffman, smiling humbly and begging mercy for their clients, these attorneys were without self-respect; looking back, their timidity made Bill Kunstler and Len Weinglass appear in contrast to be totally disrespectful and defiant.

The entire Chicago bar apparently permitted Judge Hoffman to become the monster that he is. To practice successfully in Chicago, goes the conventional wisdom, a lawyer needs a good reputation among the judges before whom he appears. Otherwise, both practice and clients suffer. Any disrespect displayed before Judge Hoffman would be a mark on one's reputation and would be taken as an attack on the whole judiciary. Therefore, play along with the old bastard, say the lawyers in their offices, and build up the firm. The price of dissent is high. For moving that criminal trials cease in the Federal Building until the Conspiracy Trial was stopped, one Chicago attorney, Frank Oliver, now

Photo: Roger Malloch/Magnum

faces disbarment proceedings. The prevailing acceptance of Judge Hoffman makes nearly every member of the profession in Chicago a silent accomplice in the growth of that judge's abusive power.

More important is the fact that the United States government would rely on Judge Hoffman to try this case. Had the government any desire to produce even the semblance of a fair trial, they could have sought to bring the case before almost anyone else. But not only did they proceed with Julius Hoffman, they never even objected to the severity or the irrationality of his rulings. In fact, they toadied to him. Schultz congratulated him for withstanding several months of harassment and Foran remarked at the trial's end, "Judge Hoffman is a strict judge. I like strict judges myself."

(Confirmation of this came from Roger Wilkins, one of our witnesses, who was at the Gridiron Club festivities a few weeks after the trial. Wilkins found himself the only black person [besides the "Mayor" of Washington] at an event where Nixon and Agnew played "Dixie" and the largest standing ovations went to Clement Haynsworth—and Julius J. Hoffman. At about the same time, the Judge was welcomed at a White House reception.)

Julius Hoffman is symbolic, then, of an entire class. He is not an accident, not a vestige of the past, but a perfect representative of a class of dinosaurs that is vengefully striking out against the future. Hoffman's vanity, arrogance, racism, paternalism, indifference to official violence, and blindness are the primary features of that class.

Although the government's representatives were overshadowed in the trial by the judge, they nevertheless played their own roles to perfection.

[PROSECUTORS AND PROVOCATEURS]

TOM FORAN REPRESENTED the United States government for the northern district of Illinois. A short, squat man in a tight-fitting gabardine suit, he was struggling to retain his 1940s Golden Gloves fighting form. Someone said Foran was Jack Armstrong. Stew Albert decided he was a repressed and frightened homosexual. The point is the same: Foran represented the conventional image of Manhood to the jury—a fighter, a father of six, earthy but intelligent, still vaguely handsome, knowledgeable in the ways of the world, but struggling as a Catholic to retain purity. He was the sort whose apparent politeness conceals a vulgar rage, as we learned from his speech to an athletic booster meeting after the trial. There Foran said he had kept his sanity during the trial by attending wrestling matches on Sundays. He called Abbie "scummy, but clever," Dave Dellinger a "sneak," Jerry Rubin a "punk."

Foran was a Democratic appointee of Mayor Daley's who had previously made his money in urban renewal dealings. When we first met him during our arraignment, Foran had a few liberal markings compared to his colleagues. For instance he argued, against the judge's will, that we be permitted to travel and speak in the months between the arraignment and the trial. At the judge's request we negotiated an agreement in Foran's office, and he gave in quickly on the issue rather than provoke a fight over free speech and travel that would be sure to damage him politically.

But Foran was otherwise locked into a dogmatic position, not only because of his role as prosecutor but because he was central to the very events of Chicago's Convention Week that the trial was about. During the summer of 1968, he had generally refused to help in permit negotiations and, as we would discover after the trial a year later, had been present at Michigan and Balboa on the night of the great police attack on the demonstrators. Although he termed that attack an "anarchist riot" during the trial, he spoke approvingly of it in his first post-trial speech.

So Foran embodied a fact we could never get into evidence: that we could not have a fair trial when the prosecutor himself was the real perpetrator of the violence. Foran, perhaps more than anyone else in the courtroom, had a precise knowledge of the city's attitude towards protest; of the police instructions at the time of the Convention; and of the methods by which our indictments were arrived at. Yet he could sit in court extolling the "adversary system" as the best means of getting at the truth.

Foran was skilled at committing outrageous legal offenses in a cool and subtle way, similar in craft to a crooked card dealer. He would manage to scorn our lawyers by laughing under his breath each time he objected. He glared, muttered and shook his head at our witnesses as they testified. He gave slight affirmative or negative nods to signal his witnesses about their answers. In this way too he was a perfect symbol of the fact that law masks repression.

Richard Schultz was the ideal apprentice prosecutor. Young, bespectacled and physically awkward, he is a perfectionist with an uncontrollable personal ambition. If Foran was the body, Schultz was the brain of the prosecution. Schultz was an overcharged computer, a structure freak who knew the exact details of "criminal" meetings we had long since forgotten. He seemed to live inside the world of facts which he had constructed from his interviews with agents. The geometric rationality of this world was paranoid. Everything necessarily had to have a deliberate cause and, where we were involved, a disruptive one. "Nothing Mr. Kunstler does is involuntary," he declared one day. At another point he charged that we were "coaching" our witnesses, most of whom had never testified in a court before, to deliberately act confused on the stand. And during a conflict over where we should go to the toilet, he confessed to losing his temper and "succumbing" to our tactic of harassment, "the same tactic they've been using on police and authorities *all their lives*." Bobby Seale's demand to represent himself was for Schultz "nothing but a ploy" to "create error on the record," and the bringing of Ramsey Clark to testify was only a "gimmick" to use the former Attorney General's prestige on our behalf.

Schultz actually was the immediate provocateur of the sharpest disruptions of the trial. The first was the gagging of Bobby Seale. Before court on the day of the gagging, Bobby entered and addressed some Panthers in the presence of Schultz. He told them, "You know I have a constitutional right to defend myself, you know, I'm standing on this right. Now you know the Party has a policy of defending ourselves when and if we're attacked, but today, if anything happens, you be cool, hear, you be cool." Then when Judge Hoffman arrived a few moments later, Schultz found

it necessary to tell him: "If the Court please, before you came into this courtroom, if the Court please, Bobby Seale stood up and addressed this group, and Bobby Seale said that if he were attacked, they knew what to do. . . . he was talking to those people about an attack by them." The result was the pandemonium which ended in Bobby's being taken away and gagged and all the defendants being charged with contempt.

[THE ATTORNEY GENERAL IS SHUT UP]

A SECOND MAJOR INCIDENT provoked by Schultz was his move to prevent Ramsey Clark from testifying. The potential appearance of the former Attorney General obviously upset the new Justice Department, but we were not prepared for the extent of their rage. What mattered evidently was not the conflict between the new and old Justice Departments, but the fact that Ramsey Clark's appearance would be so damaging to the government's case. If the Attorney General in office at the time of the Convention did not seem to consider us criminals, then the whole prosecution would be exposed as a purely political affair, and might have caused "reasonable doubt" of our guilt in the minds of the jury.

When we interviewed Clark at his Falls Church, Virginia, home two days before his appearance, there were two representatives of the new Justice Department present. One described himself as the "eyes and ears," and said rather ominously that he'd seen me before. Later Bill Kunstler recalled having tried a civil rights case against him in Mississippi four years ago. As the agent took notes, Clark related the substance of his possible testimony. It was more or less favorable to us:

1. Clark was publicly critical of Mayor Daley's shoot-to-kill order.
2. Daley's office opposed permits. The Justice Department officials were impressed by Rennie Davis' cooperation but could find no constructive elements in Chicago to pressure the city to negotiate.
3. When Chicago requested 5000 pre-positioned troops, one week before the Convention, Clark opposed the move.
4. Clark turned down FBI requests for authorization to wiretap our communications.
5. During Convention Week, Wesley Pomeroy told Clark by phone that he was ashamed to be a policeman after witnessing the Chicago police in action.
6. Clark called Foran after the Convention and suggested an investigation of police brutality but no grand jury investigation of the demonstrators.

After our interview, and while Bill Kunstler was momentarily out of the room, the Justice Department agents attempted to persuade Clark not to testify on the grounds that he would be "used." He told them it was his duty to testify to whatever was relevant, but when he came to Chicago two days later the same agents were present and had reported to Schultz and Foran about the interview. Before Clark was called to testify, Schultz rose to warn Judge Hoffman of what was about to happen. Schultz read a twisted version of the interview, then suggested that Clark not be allowed to testify. Schultz's reasoning was adopted from *1984*: the Attorney General could not testify to certain confidential matters, especially having to do with "national security," according to Schultz. The government could wiretap and infiltrate our meetings, he was saying, but we could not hear evidence from a top participant in theirs. Furthermore, the rest of Clark's testimony, said Schultz, would be "cumulative" because Clark's assistants, Roger Wilkins and Wesley Pomeroy, had already testified to meetings with Rennie Davis. (When Wilkins and Pomeroy were on the stand, however, Schultz had objected to placing in evidence a memo about Wilkins' positive evaluation of Davis and negative evaluations of the city. All we were allowed to state then was that the meeting between Wilkins, Pomeroy and Davis had occurred. The evaluations by the Justice Department were dismissed as "hearsay opinion" not subject to cross-examination.)

So Schultz concluded that the only reason Clark was being called was as a "prestige witness" and the government would be made to "look bad" by objecting to his testimony in front of the jury. Letting Clark testify would contribute to the "mockery" we were trying to create. The judge agreed. And then a final nail was driven in: the lawyers and defendants were ordered not to say anything about this suppression to the jury.

The New York Times saw this as "the ultimate outrage" of the trial. Our feelings were even stronger. A day later, after Foran made a pious statement about the government's "fairness," I exploded to Foran (with the jury going out of the room): "Fantastic. You wouldn't even let the former Attorney General testify." The judge did not hear the exchange, or at least did not react until Schultz and Foran came to the lectern to put the "outburst" on the record. For good measure, they claimed I had jumped up and was screaming the words.

The Times said the Clark incident proved the determination of the Justice Department to win a conspiracy conviction at any cost. For us, it was only part of a pattern of hysterical repressiveness that began with the arraignment.

[V]
The Rigging of Justice

OUR 24 PRE-TRIAL MOTIONS were designed to challenge the fairness of the law and the trial procedures. We asked to inspect the grand jury minutes on the transcript and to disqualify Judge Hoffman. We asked that the indictment be dismissed because of the unconstitutionality of the law; because of its generality; because of bias in the grand jury; because of irregularities in the selection of the grand jury; and on the grounds of double jeopardy. We asked that our attorneys be allowed to conduct a *voir dire* of the jury. All the motions were denied.

In the light of later events, the most significant motion was a request to postpone the trial for six weeks so that Charles Garry could recover from an operation and become chief trial counsel, and Bobby Seale's lawyer in particular. The government argued that the trial should go ahead without Garry, that the motion was simply a ploy to gain a delay. The motion was denied.

The first several days of the trial served as an introduction to the unbelievable treatment to which we would be subjected in the months that followed. Despite the absence of his lawyer, Bobby was told that he could not represent him-