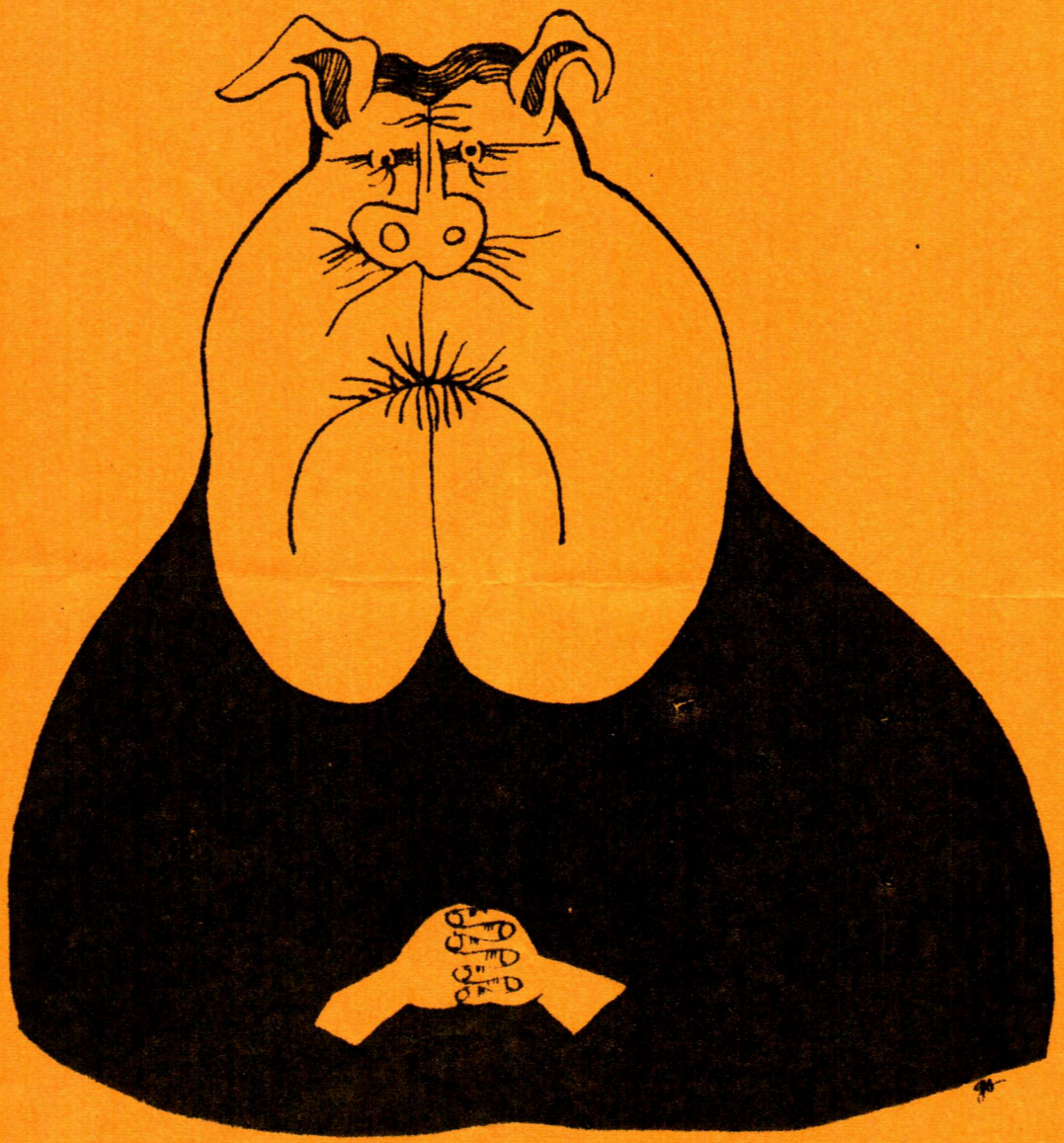
INSANITY IN THE COURTS



The Story Of The Mass Bust Trials Of The San Francisco State Strikers

INSANITY IN THE COURTS:

THE STORY OF THE MASS BUST TRIALS OF THE S.F. STATE STRIKERS

WHAT WE DID

Last January 23, a thousand strikers and strike supporters gathered at a rally in the middle of San Francisco State's police-ridden campus to hear the Third World Liberation Front talk about the 15 demands, and the principles upon which they were based: the fight against racism, self-determination for third world people, and power for the people to implement their demands.

The rally lasted only 25 minutes when the police surrounded us. Half the people were able to get away. 435 of us were busted.

WHAT THE COURTS SAY WE DID

All 435 people are accused of three misdemeanor charges: disturbing the peace, failure to disperse and unlawful assembly.

HOW WE ARE BEING TRIED

Before the trials began, our lawyers filed motions for individual trials. The judges decided this would be too expensive and time-consuming for the courts, so they bunched us into groups of from 5 to 12 people. So far, about 20 groups have been on trial, with the same charges and the same evidence used against all of us.

WHO SITS ON THE JURY AND WHY

For each group, about 125 prospective jurors are questioned. Of these, approximately 8 are black, one a student, one a young worker under 25. Our juries are overwhelmingly white and over 35. They consist of skilled workers, usually supervisors, small businessmen, housewives, retired people, and managers in large corporations.

Why can't we get tried by juries of our peers: third world people, poor people and youth? Three reasons: first, because jury lists are selected from registered voters, and most of our peers don't vote because they know the vote doesn't bring them any real power; second, our peers can't afford to live off the $6 or $7 a day the city pays for jury duty, and few employers will compensate their workers adequately for performing their "civic duty;" third, because the D.A. excludes anyone from sitting on the jury who might have the vaguest concern about educational problems, or the oppression of third world people.

(*Note: All data in this pamphlet up to date as of Sept. 1, 1969)

The list of organizations, membership in which disqualifies a juror, according to the D.A., includes SANE, American Friends Service Committee, and the NAACP, as well of course as all the strike-support organizations and the Panthers. To balance the list, the D.A. also includes the American Independent Party, the Minutemen, and the American Nazi Party. (The Commonwealth Club, made up of the chief capitalists of San Francisco who gave Hayakawa a standing ovation, is not on the list. Neither is the Chamber of Commerce which supports removal of third world people from their homes through redevelopment.)

Another basis for exclusion by the D.A. is association with a church-goer. If the prospective juror has a friend or relative who ever contributed to the upkeep of Glide Memorial Church, Sacred Heart Church, Fellowship Church or St. Peter's Church -- all of these churches permitted strike meetings to go on in their premises -- the juror is disqualified. He'd be prejudiced in favor of the defendants, by remote control association.

THE D.A.'S CASE AGAINST THE STRIKERS

No evidence

The D.A. isn't interested in proving that the defendants are guilty of the actual charges brought against them. If his case was being based on evidence, he'd lose. The assembly wasn't "unlawful," because the strikers had the proper administrative permission to use the Speakers Platform, and Hayakawa's edict banning rallies certainly hadn't force of law; it was simply administrative fiat. Nobody's peace was disturbed; even the D.A.'s chief witnesses, Business Department professors, testified that they kept teaching their classes throughout the rally. The strikers all testified that they couldn't hear the words of the police order to disperse given over the loud speaker; besides which, they had nowhere to disperse to, since the police had them completely surrounded.

Violence and law and order

The D.A. doesn't need evidence to win his case. All he has to do is rant about "violence" and "law and order." Say it loud enough and long enough and some jurors begin to believe it, if the mass media hadn't convinced them of it long ago during the strike.

The strategy that the D.A. uses to get his point across is to establish the "state of mind" of his police and scab-faculty witnesses. They were all "apprehensive" during the rally because they expected that after the rally all hell would break loose.

Q. What kind of trouble did you expect?
A. 111 broken windows, one chair overturned, one typewriter out the window, 3 bombs, 4 fires and 7 stuffed toilets.

Q. Did these defendants do these things on Jan. 23?
A. No.
Q. In the previous months of the strike?
A. I couldn't say, I don't remember seeing their particular faces; but somebody did, so it could have been them.

The D.A. treats the jury to a trip to "McDonagh's Hideaway," a room on the second floor of City Hall in which the D.A. in charge of coordinating the S.F.State mass bust prosecutions, Marty McDonagh, has carefully laid out an arsenal of all the weapons collected from arrestees and non-arrestees on the 23rd. Weapons range from nail files to picket sticks, with an occasional pool ball. The D.A. doesn't allege that any of the defendants used these weapons on that day, only that we might have, if the police hadn't broken up the rally.

Tight coordination

The D.A.'s have their prosecution tightly coordinated. With as many as seven trials going on at the same time, you can walk into any courtroom at a similar stage in the trial and see the same police witnesses (Sgt. Epting of the Tactical Squad has testified over 20 times), hear the same faculty testify how frightened they were, and hear the same sarcastic questions and comments from all the D.A.'s.

Their prize parrot occurs during their summation argument to the jury. A menacing look, a shaking finger waving at the 12 nervous men and women in the jury box, and out comes,

"If any of you vote to acquit any of these young people of the charges for which they are on trial, you personally will be responsible for any disorders that occur at S.F. State College next fall."

Prosecution rests.

OUR DEFENSE

Young, sometimes inexperienced lawyers -- unpaid

Since we have no bread to pay lawyers, (all the money we can raise goes into paying for appeal bonds of defendants convicted) we've had to rely almost entirely on the public defender's office, and on young lawyers from large firms who've been designated by their senior partners to use the State cases to get some "trial experience."

Political education of the lawyers

For the lawyers, that experience has blown some minds. They've discovered what a political trial is all about. The courtroom walls become a distorted mirror of the power struggle that went on at the campus.

All the defendants insist that their motivations for being at the rally -- their support of the 15 demands -- be explained to the jury and injected into the trial at every available occasion. But the defendants are sharply divided over the meaning of a "political defense." For the Progressive Labor Party defendants, and their allies from the Worker-Student Alliance, a "political defense" means an all out attack on the court system inside the courtroom, and a commitment to "revolutionary honesty" which impels them to state on the witness stand that they believe in the overthrow of the government by force and violence, and that they implemented this belief during the strike by using any means available to attack police and damage college buildings.

For the other defendants, a political defense means using all available means within the courtroom procedure to educate the jury about the politics of the strike, combined with striving to win their cases so they don't have to spend 6 months in jail for the crime of attending a rally.

The D.A. has cleverly placed at least one PL or WSA defendant in each group, knowing that their defense would be likely to prejudice the jurors against all the defendants. The tactic has been extremely effective, difficult for the defense lawyers to combat.

Pitted against all the defendants and their lawyers, is the strong combination of the extreme fascists -- the D.A.'s, the police, the Business and Physical Education Department faculty and the administrators -- and the protector of the corporate interests of the State of California, the judge. The odds are stacked, and our lawyers rapidly lose any illusions they may have had about the impartiality of the judicial system.

Winning lawyers to the movement

With some of their illusions swept away -- misconceptions about the law nurtured by their class background, law school training, and aspirations to become wealthy, respected professional -- many of the young lawyers have become personally committed to the people they are defending, and politically committed to the principles for which we went on strike.

The S.F.State Legal Defense Committee and the individual defendants have cooperated in the effort to bring these lawyers into the movement. We operate on the philosophy that lawyers and defendants are involved in a common struggle, and have to work together to win.

The first aspect of that struggle is the development of a new form of relationship between lawyer and defendant. Instead of accepting the usual attorney-client relationship in which the attorney makes all the decisions about courtroom strategy and tactics, while the client quietly sits back and awaits the verdict; we have maintained that the responsibility for the trial is a mutual one.

Our responsibility is to provide the lawyers with whatever legal and technical assistance they require: gathering evidence, getting witness depositions, subpoenaing films and tapes, doing research on jurors, keeping abreast of new D.A. tactics, and providing information on which judges allow what kinds of questions and evidence to be introduced into the trial.

In return we ask that the lawyers be willing to share all their knowledge of the law and courtroom strategy with the defendants, and that all decisions on strategy in the trials be decided jointly by defendants and lawyers.

Although we have lost some lawyers whose class predilections could not permit them to accept this new kind of relationship, on the whole, our strategy has been successful. Perhaps the most important outcome of the State trials will be that, in the future, many more lawyers will be willing to accept, and take the consequences for, the defense of people in political trials.

The elements of a political trial

Broadly defined, all criminal trials of poor people, third world people and youth can be called political trials, for two main reasons. First, because the life circumstances of poverty, humiliation and oppression that these people suffer are the direct result of the political and economic institutions of a capitalistic society. Secondly, the decision to prosecute some crimes and dismiss others is a political decision. Bank presidents who make policies which result in exhorbitant interest rates and consequent economic hardship for thousands of people are rarely, if ever, prosecuted for these criminal acts. Instead, third world youth from Hunters Point, Fillmore and the Mission districts of San Francisco, crowd the dockets of the court calendars.

In a narrower sense, a political trial is one in which an individual or group is selected for criminal prosecution for actions that stem out of their political beliefs. Categorizing the charges as misdemeanor or felony is incidental to the political action; local courts have no category for political crimes (except for conspiracy). The major differences between the two kinds of charges is that the jail penalty on a felony is much higher than on a misdemeanor, and that factual evidence in a felony case tends to have more relevance to the outcome of the trial than in a misdemeanor case.

For example, it is vitally important that Bobby Seale's lawyer prove that Seale had no connection with the murder of the Connecticut Panther. That evidence is vital to Seale's acquittal. On the other hand, in misdemeanor cases such as the State mass bust trials, evidence pertaining to whether or not the defendants participated in the rally for which they are on trial is of little or no consequence to their acquittal or conviction, since none of the defendants deny their participation in the rally.

Strategies of political defense in the mass bust trials

For the majority of defendants, and all the lawyers, who do not base their strategy on an all-out attack on the court system, the overall strategy of the trials has been to attempt to educate the jury through a combination of factual evidence, some minimal reliance on first amendment constitutional arguments, and a heavy emphasis on establishing the motivations of the defendants. The relationship of these three elements depends on the decisions of each group of lawyers and defendants, on the tactical skill and articulateness of the lawyer, and the degree of overt prejudice expressed by the judge.

The problem of factual evidence stems from a prbblem of definition. We say our sole "crime" was participation in a rally; they say our crimes are disturbing the peace, failure to disperse, and unlawful assembly. Their definition, of course, prevails, so the defense has to prove our "innocense" of these crimes. We maintain, through cross examination of D.A. witnesses, and through testimony about the noise level of the rally, that no one's peace was disturbed because the rally wasn't unduly noisy. We assert that we hadn't time to disperse because we were surrounded by the police, and that people could not hear the police order over the loud speaker telling us to leave the campus. We state that the assembly wasn't unlawful because, according to school tradition, we had a right to use the Speakers Platform for assemblies, and that nothing in our conduct at this particular assembly made it unlawful. Minute, boring testimony to support our claims goes on day after day, with D.A.'s and defense lawyers parrying and thrusting objections sustained and overruled.

It has been virtually impossible for most of the lawyers to inject constitutional issues into the defense itself; any arguments on free speech and assembly can be squeezed in only in the summary argument to the jury. Its effectiveness is almost entirely emotional. The judge says the jury cannot decide on a point of law, but many jurors have responded in spite of that admonition to their deep-rooted beliefs about the guarantees of the Constitution.

The most important aspect of the defense is the establishment of the motivations of the defendants, since all admit they were willingly present at the rally. But this strategy is a tough one to pursue, because the D.A. and the judge are lined up to prevent it. The D.A., as was mentioned before, bases his whole case on state of mind -- fearful professors, wary police and violent students. Our lawyers pit commitment to the strike against violence, and fear of the police against breeding terror in faculty hearts. But the D.A.'s object to this line of argument at every moment, and the judges almost always sustain their objections. The defense's sole hope rests on believing that the jury will remember what's been said, even though the judge strikes it out of the record.

The only times that we can assert our political beliefs in the court are when the defendants are on the stand, and in the defense summation. Our lawyers try to make the jurors view each defendant as an individually motivated, moral human being, rather than to accept the D.A.'s version of us an insane mob, bent on destroying the entire "fabric of democratic society."

THE VERDICTS

The verdicts in the trials so far have been, to say the least, inconsistent. Each of the 167 people tried so far has been accused of the same charges, with identical evidence brought against them by the D.A., and with similar evidence brought in their behalf by the defense lawyers.

Results:

42 people acquitted of all 3 charges;
35 people received mixed hung juries and acquittals, some have been retried, others had charges dropped;
31 people convicted of one or two charges;
66 people convicted of all 3 charges.

The missing link in this judicial charade is the judge.

THE IMPARTIAL JUDGES?

Judges act as strike-breakers

The San Francisco judges have played a key role in the State's repression of the strike.

Two weeks after the strike broke out last November, the judges got together and decided that no people arrested at State would be granted O.R. (O.R., release on one's own recognizance, is supposed to work on a point system: so many points for residence in the Bay Area, attendance in school or a steady job, family ties nearby, etc. -- all to determine whether the arrestee can be expected to keep his court appearance. Only people accused of attempted murder or murder are refused O.R., because they are also refused bail.)

On the night of the mass arrest, Judge Mana arbitrarily refused to release anyone on O.R.

The result: we dished out a total of $70,000 for our 700 brothers and sisters arrested during the course of the four and one-half months long strike. Very profitable for the insurance companies who get the lion's share of the bondsman's cut.

According to a Chronicle editorial of Feb. 6, 1969, all the judges were called to Sacramento by East Bay legislator Don Mulford, to "discuss" the State trials. The judges were warned that their political careers were in jeopardy if they didn't make sure that the trials resulted in convictions and heavy sentences.

When there's a conviction

When a jury returns a conviction verdict late at night in City Hall, the judges lock us in the courtroom for about a half hour after the jury leaves. Ostensibly, this action is to protect the jurors from the onslaught of a potentially "violent" mob of about 50 dejected friends of the defendants who have been waiting all day in the courtroom for the verdict. Actually, this delay period gives the judge time to call the Tactical Squad. When we are released from the courtroom, we walk out into the halls between two lines of Tac Squad police in full battle array. Just like the good old days on the campus.

Remanding people into custody

A couple of judges have gotten into the habit of remanding people into custody immediately after conviction, if the judges determine that the guilty ones are a menace to the community. This is totally unprecedented in misdemeanor cases. One such menace had a criminal record which consisted of having staged a peaceful sit-in with 5 other people on the steps of the Atomic Energy Commission back in 1961 to protest the U.S. use of the nuclear bomb. He was whisked away into jail.

The Sentences

Several jurors who held out for acquittal have told us that they were finally convinced to vote for conviction, not because they believed we were guilty, but because their conviction-bent fellow jurors told them that it wouldn't be fair to vote a hung jury, and make us go through another 6 week trial ordeal. Besides, the conviction-jurors argued, the defendants would get off with a few months probation and a small fine. No one would go to jail in a first conviction misdemeanor case.

Some of these well-meaning jurors confessed that they cried when they heard the sentences.

Back in June and early July, the judges came down with the following sentences:

either 15 days in jail, 90 days suspended sentence, one year probation,
or 45 days in jail.

But as the trials go on, the judges evidently feel the need to increase the intimidation. In late July and August, the same judges were handing down these sentences:

either 30-60 days in jail, 180 days suspended sentence, two to three years probation,
or 6 months in jail.

The total range of sentences has been as follows:

from suspended sentence to one year in jail;
from no probation to three years probation;
from no fine to $500 fine.

Same acts, same charges, same verdicts, just different people.

Probation Dept. says: everyone goes to jail

Chief Probation Officer Cavanaugh has ordered all the probation officers to recommend mandatory jail sentences for all people convicted in the mass bust trials, regardless of prior record or value of their work in the community. One p.o.'s job went on the line when she testified in court that, contrary to orders, she was recommending no jail terms for her defendant. The judge gave the striker 5 months in jail. The probation officer was immediately transferred out of San Francisco.

Appeal bonds

The usual cost of an appeal bond in a misdemeanor case is twice the amount of the original bail. Bail was set for most of the mass bust arrestees at $350 per person.

The judges are setting the majority of appeal bonds at anywhere from $1500 to $6250, depending on how "dangerous" the judge decides the striker is.

WE NEED YOUR SUPPORT

In spite of some well-grounded skepticism about our judicial system, we intend to appeal these cases are far as we can. It'll take hundreds of thousands of dollars. Only 167 of the 435 arrested in the mass bust have been tried so far. And we still have 135 individual trials of people arrested throughout the strike starting in late September, including all the felony charges, and all the leadership of the Third World Liberation Front.

We need all the help we can get. The Movement is the people, and we cannot abandon the people to the repression of the state.

Power to the People,

SAN FRANCISCO STATE LEGAL DEFENSE COMMITTEE

Contributions can be sent to:
S.F. Legal Defense Committee
P.O. Box 31158
San Francisco, Cal. 94131