

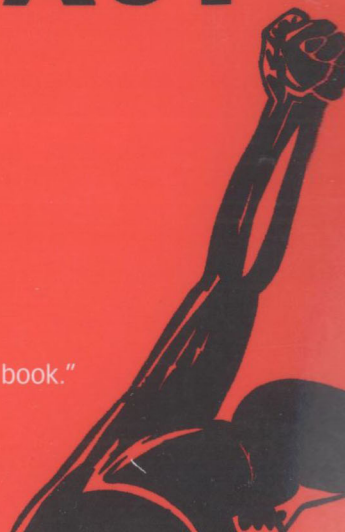


THE CHICAGO CONSPIRACY TRIAL

JOHN SCHULTZ

"A beautiful, compelling, tear-jerking, mind-boggling book."

WILLIAM S. BURROUGHS



THE CHICAGO CONSPIRACY TRIAL

Revised Edition

JOHN SCHULTZ

Introduction by **CARL OGLESBY**

The University of Chicago Press ▪ Chicago & London

*For my Son, Tim,
and my daughter, Susie*

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"John Schultz, more than any other observer, covered the Conspiracy Trial in all its bizarre aspects. It was his bone-deep investigation and persistence, especially his astonishing conversations with two of the women jurors, that led to an unprecedented rehearing. This work, aside from being a profound study of fear, is investigative journalism in its highest sense."

—STUDS TERKEL

"A beautiful, compelling, tear-jerking, mind-boggling book."

—WILLIAM BURROUGHS

"The Schultz study is enormously relevant, covering as it does the jury performance under those strenuous conditions and testing realistically whether the jury today does perform the classic role (insulating the citizen from official oppression). It is therefore an important book for those who care about the jury system. . . . Mr. Schultz has written up his impressions with verve and perception. They cannot help but round out one's view of this important and perplexing case."

—HARRY KALVEN, JR.,

Professor of Law, University of Chicago

"... he puts words together with a clarity of sense and syntax that is almost physically engaging. Yet his brilliant account of the Chicago Conspiracy Trial is strikingly nonlinear. . . . If Schultz has offered us a drama that is a metaphor for this society itself, then his intensive concern with the jurors and their own special agony is its climax."

—DAVID GRABER, *Los Angeles Times-Calendar*

"A masterful recapitulation of these anomalous events. . . . All politically literate Americans should read [*The Chicago Conspiracy Trial*.]"

—*Kirkus Reviews*

"As an historian, I am impressed with the depth with which John Schultz's book elucidates the American historical experience through a focus on this one important present-day event. . . . This book is a work to which I can turn, and to which I can direct the attention of students, for deeper understanding of the present as history and history as a way of understanding ourselves in the present."

—MARTIN J. SKLAR, Bucknell University

THE CHICAGO CONSPIRACY TRIAL

John Schultz is professor emeritus of fiction writing and member of the graduate faculty in fiction writing at Columbia College in Chicago. Schultz originated the Story Workshop method of teaching writing in 1965 and has continued to develop and broaden it, developing expository and argumentative as well as fiction writing approaches. Along with *The Chicago Conspiracy Trial*, originally printed in 1993, Schultz is author of *No One Was Killed*, his report of the Democratic Convention week in Chicago in August of 1968, which is also being reprinted by the University of Chicago Press. His other works include the novel-length essays "The Siege of '68" in the *Reader* (September 1988) and "The Fabulous Presumption of Disney World: Magic Kingdom in the Wilderness" in *The Georgia Review* (Summer 1988), and the writing text *From Start to Finish*. He lives in Chicago, Illinois.

Carl Oglesby is author of a number of books, including, most recently, *Ravens in the Storm: A Personal History of the 1960's Antiwar Movement*. He was president of Students for a Democratic Society (1965–66), a leader of the antiwar movement. He lives in Amherst, Massachusetts.

INTRODUCTION

The Whole World Was Watching

THE WEEK-LONG COLLISION of the Chicago police and several thousand anti-war activists that occurred during the Democratic Party's national convention in August 1968 has emerged, after all these years, as one of the crucial events of the entire Vietnam War period.

From the point of view of the U.S. Government, the irony of justifying the war as a defense of democratic values while simultaneously attacking dissent against it would thereafter be dismissed as an unavoidable casualty of a principled cause. On the other hand, after Chicago, the Government would no longer try so hard to convince the home front that the United States was fighting in behalf of Vietnamese democracy. From then on, it was just fighting to win a war whose purpose was no longer clear.

And from the point of view of the anti-war movement too, Chicago marked a sea change. The movement's original commitment to nonviolence would thereafter be pushed aside right along with its earlier shared sense of the humanity of one's adversary. From then on, the protest against the war was increasingly an all's-fair attack upon "the system." And the demand was no longer merely for the immediate return of U.S. forces in Southeast Asia, but indeed for the overthrow of the

entire American system in behalf of the imprecise but revolutionary-sounding rhetoric that the movement then began to adopt. Not quite typical but indicative of the change of mood was the fact that by 1969 a large handful of campus newspapers had become explicit supporters of the Viet Cong.

Given the importance of “the Chicago convention riots,” as the events of August 1968 were often labeled, we are fortunate that a journalist of the power, insight, and ironic good humor of John Schultz was there to describe in two remarkable books first the week itself (*No One Was Killed*, 1969), then the trial of those who organized the demonstrations (*Motion Will Be Denied*, 1972), the latter being republished here in an updated edition as *The Chicago Conspiracy Trial*.

Schultz is the ideal journalist-historian of these events, first and last because, as the reader will see, he is a dream of a writer with a novelist’s sense of the telling detail and a critic’s ability to find the important line through the thicket of claims and counter-claims that has built up around this case. He is generally sympathetic toward the eight anti-war activists whom the Government accused and in part convicted of conspiring to riot, but by no means is he uncritical of their motives or their conception of the strategic moment into which the trial had thrust them. He is capable of appreciating the difficulties of the situation of the Government’s prosecutors and indeed of the jurors who voted to convict. He is at the same time clear that there probably was, after all, a conspiracy to create violence—but that it was the Chicago police and the Chicago political authorities, very much including Mayor Richard Daley, who were guilty of it.

I was outside the courtroom waiting my turn to testify when Mayor Daley came. Two days before, I had been cozily nursing my own movement wounds through a deep Vermont winter when the call came from Tom Hayden, one of the eight defendants and like me a former president of Students for a Democratic Society, a leading organization against the Viet-

nam War during the mid-1960s. Hayden had called me because the defense was having difficulty getting some of its key witnesses lined up. The danger was that if the defense was at any point unable to produce its next witness, Judge Julius Hoffman would rule the defense closed. It was not that I had anything so critical to contribute to the defense, but my testimony could be justified on grounds that I had been involved in the demonstrations themselves as well as several of the planning meetings that led up to them. I could speak to two basic questions: (a) Had the organizers intended the demonstrations to become violent? (b) Were the demonstrators and their leadership the instigators of the violence that ensued? On the first point, I testified that, as I read it from outside the organizing group, there was a sense that Mayor Daley's honor and prestige were on the line and that, to defend them, he would feel a need to protect the Democrats' convention by keeping Chicago quiet. On the second point, I testified that as far as I could see, it was a thousand times more the police than the demonstrators who wanted and provoked violent encounters.

One example: Dave Dellinger had asked me to give a speech at the bandshell on August 28, 1968, the third day of the convention. The scene I faced from the microphone was physically calm to start with but emotionally tense, the crowd's jitters in no way eased by the fact that we were surrounded by a line of what seemed several hundred policemen with riot sticks in hand. It was a baleful scene in which to attempt a speech, but Dellinger and the other organizers were desperate to level out the insane vibrations and give the crowd the reassurance of a normal-seeming and nonviolent protest. Was it then a provocateur or just an angrily thoughtless demonstrator who flung something—it looked to me like an apple core—at the police line from the middle of the crowd? Instantly the police formed into a column two abreast and went wading right into the body of the crowd in pursuit of the offender, riot sticks smashing down to the left and right on the scores of people who had no

idea what was happening and who had nowhere to go to get out of the way. I had felt powerless before and would feel it again, but nothing compared to witnessing that scene of utter mayhem. The only thing the helpless crowd could think to do—and how little it seemed at the time—was to write the caption to the scene of its own mauling with the chant that would become the ultimate slogan of Chicago 1968: “The whole world is watching!”

That same sense of helpless dread was reawakened in me by the scene in Judge Hoffman’s courtroom about a year and a half later, a cavernous neon oven with guards and plainclothesmen everywhere, the dread deepened by the profound uncertainty in that cold Chicago winter as to how everything was going to turn out. The Vietnam War was increasingly bloody on its own terms and furthermore seemed about to escalate into a war with Red China. The Nixon administration’s willingness to break the law in its effort to silence the anti-war movement rendered entirely reasonable the otherwise preposterous fear that we were on the verge either of an out-and-out police state or some new and terrible kind of civil war.

Schultz’s marvelous evocation of the Chicago Eight trial has to a large degree been mellowed by the events of the 23 years that have elapsed since the verdict, if only because we are now beyond rather than immersed in that crisis and know how the story comes out. The book was conceived, researched, written, and published in an atmosphere of rising domestic tension against the backdrop of an increasingly violent war against the Vietnamese people. No one could guess then that President Nixon’s re-election that year would be merely the prelude to his discovery in impeachable offenses.

A result is that *The Chicago Conspiracy Trial* reads in 1993 like a completely different book. In 1972, the end of the story of the war and the domestic protest against it was still excruciatingly in suspense; it had not even been foreshadowed. Indeed, Schultz’s book first appeared in the bookstores at the

same time as a White House spy by the name of E. Howard Hunt led a group of burglars with sophisticated bugging equipment, Nixon's Plumbers, into the headquarters of the Democratic National Committee at the complex of buildings in Washington, D.C. known as the Watergate. Their arrest red-handed in June of that year set in motion a tumult of events that resulted two years later in the forced resignation of President Nixon, the inauguration of President Gerald Ford without benefit of election, and thus, *finally*, to the end of the Vietnam War.

And with that, John Schultz's remarkable book had at last found its proper ending.

—Carl Oglesby
Cambridge, Mass
November 1992

* * *

Carl Oglesby was a leader of the anti-war movement as president of Students for a Democratic Society. He has written four books on political themes.

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PART ONE

Motion Will Be Denied

IT IS THE NATURE of the several games of history-making—of determining the material intentions of a society—that the figures and groups of the “moribund but ruling past” will test to the utmost and in many different ways the strength of a challenger. They will not succumb or submit or negotiate until a challenger has found the will and the humor and the consciousness and earned the strength and the right to be born—to be dominant—or to change and compel the “past” to do its will. Such a figure almost wearing a sign saying “Moribund American Ruling Past” in a deadly sort of morality play might have been Judge Julius Jennings Hoffman, who presided over the trial of the Chicago Conspiracy Eight. I say “might have been” and I use the word “moribund” somewhat advisedly because, at seventy-four or seventy-five, he was a remarkably lively man, needing none of that Geritol that defendant Abbie Hoffman kept prescribing for him publicly out of the habit of media myth-making.

What Judge Hoffman lacked in physical stature—he was slight and literally wizened—he made up for in the agility and strength of his sometimes magically melodramatic voice. He pronounced karate “ka-ret” while reading the indictment of the eight alleged conspirators to the hundreds of prospective

jurors. It perhaps showed how long ago Judge Hoffman ceased to look up unfamiliar words in the dictionary.

He was about seven or eight—about as old as Abbie Hoffman's son America at the time of the Conspiracy Trial—when the Wright brothers lay belly down on their contraption and flew it a hundred feet or so over the sands of Kitty Hawk. The defendants were a little older when more developed American planes put the torch to North Korea to keep firm a strategic reach of that empire with which Judge Hoffman had long ago identified his sense of honor and sense of elegance. That was about the time that Judge Hoffman, then on the state bench, through Senator Everett Dirksen, Republican, Illinois, to whose party the judge gave monetary gifts, secured from President Dwight Eisenhower an appointment to the federal court of the northern district of Illinois. Whereupon, we are told, Judge Hoffman embarrassed Senator Dirksen with the ingratitude of becoming nonpolitical in his judgments.

Judge Hoffman was described by persons both friendly and familiar with him as needing someone to pick on. Members of his staff understood submitting to that need to be part of their function. He was also an unconscionable flirt with women.

"I didn't ask for this case," he said more than once in the five months of trial. Persons familiar with the day-to-day "intense paranoia" of the federal courts of the Northern District of Illinois have said that he *did* ask for the case.

Judge William Campbell, friend of Mayor Daley, carefully guided the grand jury that brought the indictments against eight demonstration leaders and eight policemen. In April, 1969, he recused himself from any further judicial duty in these cases, ostensibly because he considered himself to be too familiar with the evidence and to have already formed an opinion. Irving Birnbaum, Chicago counsel for the defense, immediately sent one of his staff to the federal courts to make sure that the new judge would be selected according to the

required lottery procedure. Birnbaum feared that the judge the government would pick if it had its choice would be Julius Hoffman. Judges are supposed to be picked for cases in Federal District Court by putting their names on strips of paper and then pasting the strips, name side down, one on top another in shuffled sequence, so that when a case needs a judge the first piece of paper on top is stripped off, turned over, and there's your judge. If the lottery was conducted as it should have been, then chance, against which nothing can prevail, picked Judge Hoffman. In times of energy and unrelenting social change, chance makes connections of awful potential for being arbitrarily magnified.

Most federal judges have what Chicago lawyers describe as a "cordial relationship" with the local U. S. Attorney's Office. But Hoffman favored the prosecution with a Roman sort of faith in the administrators of the empire, whether the case involved Mafia and gambling, desegregation, mail fraud, tax evasion, draft resistance, conspiracy to incite riot, antitrust, or what have you. The method of judge selection in the Northern District sent many important cases into his courtroom, including the Krebiozen cure-for-cancer fraud case and the South Holland school-district desegregation case. In the latter, called "his finest moment" by judges and lawyers whom he admired, he of course ruled for his favorite party, the United States government. Persons close to the judge say that "a perceptible change could be seen in the judge's mood throughout the year preceding the trial, and he was constantly buoyed by the school-district case." Many cases involving celebrated Mafia figures such as Anthony Accardo and Sam Battaglia had come before Judge Hoffman.

He was noted for seldom granting appeal bond, for no delay between a finding of guilty and sentencing, and for giving the maximum sentence. When the American Civil Liberties Union tried to enter an *Amicus* brief in the Conspiracy case, Judge Hoffman declared, "I'm not running a school for civil rights."