

CLUs Back Protestors Arrested at Pentagon Leads Defense For 1969 Mass



UPI Photo

Mrs. Philip A. Hart, wife of the Michigan senator, is defended by the CLU in her trial for peaceably protesting at the Pentagon last fall.

Will Appeal for 1967 Marchers

The Union will appeal to the U.S. Supreme Court the convictions of four persons arrested during the 1967 "March on the Pentagon," among them author Norman Mailer.

The U.S. Court of Appeals for the Fourth Circuit in January reversed the loitering convictions of two demonstrators, agreeing with the ACLU that District Judge Oren R. Lewis's hostile conduct at their trials "tended to prejudice" the jury.

The Court of Appeals vacated the lower court's sentence against another demonstrator, Jerry Rubin, and sent his unlawful assembly case back for further proceedings on questions of electronic surveillance.

The Court upheld the disorderly conduct convictions in the other four cases.

The demonstrators were arrested after refusing to leave the Pentagon grounds when their demonstration permit expired, in violation of General Services Administration regulations. The ACLU contends the regulations are an unconstitutional infringement on First Amendment rights to speak, assemble and petition on public property.

The cases have been handled by a team of lawyers headed by Attorney Philip J. Hirschkop for the national ACLU and the Virginia and National Capital Area affiliates.

LA Police Escape Crime Prosecutions

Police Department memoranda reveal that more than 100 Los Angeles officers escaped prosecution for crimes against citizens between November, 1967 and May, 1969, according to Laurence R. Sperber, staff counsel for the Southern California CLU.

Each month LAPD's Internal Affairs Division lists all disciplinary actions it took in the previous month. The lists are ostensibly public documents. ACLUSC obtained them through confidential sources.

The reports for the 19-month period show that 107 policemen were disciplined — but only by the department and for violation of departmental regulations — for offenses ranging from perjury to assault with a deadly weapon. Most were punished by suspension for two or three days. Only two officers were prosecuted.

Los Angeles Police Chief Edward Davis claims cases against officers are turned over to the district attorney's office for possible prosecution before the Department takes disciplinary action.

An ecumenical mass for peace, conducted on the Pentagon concourse last Nov. 13, was protected First Amendment activity, the ACLU of Virginia contends in its defense of eight of the 186 arrestees.

At press time the test case is being tried before a federal magistrate in Alexandria. The defendants are charged with violating a General Services Administration rule concerning conduct on government property. It prohibits disorderly conduct, conduct which "creates a loud or unusual noise," or conduct which obstructs or "tends to impede or disturb" government employees or the general public.

The charges include every violation except disorderly conduct. The "noise," according to the government, was the mass. The "obstruction," the government says, was caused by the crowd that gathered to observe the mass.

CLU Attorney Lawrence Freedman challenges the facts. Representing the defendants, he is arguing that the demonstrators were quiet and peaceable. They did not obstruct the concourse. On the contrary, they were careful to keep paths open. A government employee who worked in an open information booth on the concourse near the demonstration testified she had not been disturbed. The Pentagon routine was not disrupted.

Freedman argues also that the GSA rule is unconstitutional on its face and in its application. The rule is a vague, broad prohibition on First Amendment activity on public property during hours when it is open for public use.

The application violates the First Amendment by punishing demonstrators for the actions of spectators. (The "obstruction" charged by the government was caused by government employees.)

The application is discriminatory, Freedman says, because the government has permitted band and choir performances and other public activities to be held in the same place under similar conditions.

No Crime or Charge —Just Jail for Negro

A small-town South Carolina Negro was recently released from jail when the state CLU expressed its interest in his case.

The man was sent to jail for a year without charges, trial or lawyer. He allegedly owed \$99-\$129 in rent to a former landlord. The local magistrate deputized his brother to collect the money. When the magistrate's brother went to the black man's home, the man ignored his presence. So the magistrate's brother pulled a gun and took him away.

The man's wife then tried to give the magistrate the rent money which was allegedly owed. The magistrate told her he had put her husband in jail for a year.

The CLU asked the magistrate to state the legal basis of the detention. The magistrate said only that the man would be released if he paid \$5000 peace bond.

The CLU next informed State Attorney General Daniel McLeod that it was considering legal action under federal civil rights law. The man was freed immediately.

Albuquerque Police Hit with Rights Suit for Crippling Negro

A Negro who was allegedly crippled by Albuquerque police has filed a federal civil rights suit asking more than \$300,000 damages for denial of his constitutional rights.

In late 1968 the man's home was searched several times without warrants and without his consent. After the last search, on Nov. 14, the man was arrested, without a warrant, on suspicion of having stolen a television set. According to the complaint of the New Mexico CLU, he was severely beaten at the police station. He



UPI Photo

Police arrest a demonstrator, one of 208 who refused to leave the Pentagon grounds in October, 1967 after their permit expired. The CLU is representing four of the arrestees in an appeal to the U.S. Supreme Court, contending they were arrested under unconstitutional government regulations.

Nassau Prosecutor Says Peace Sign Violates NY Law, Threatens Arrest

The Women Strike for Peace symbol — the peace symbol superimposed on a portion of the American flag — has been held violative of a New York State law by the Nassau County district attorney.

On Jan. 15 the district attorney threatened arrest of anyone displaying or selling the symbol "so the courts can make the final determination." Two days later the New York CLU filed suit, and the DA agreed the court determination would precede any prosecutions. A three-judge federal court has been convened.

The 1905 law prohibits the placing of "any word, figure, mark, picture, design, drawing, or any advertisement, of any nature, upon [the flag]." The maximum penalty for violators is a year's imprisonment or \$1,000 fine.

According to the federal suit, the use of the symbol is "absolutely protected from governmental interference by the First Amendment."

The U.S. Supreme Court has recognized that the display of political emblems is protected speech (most recently in last year's *Tinker v. Des Moines Independent Community School District*). The court has held also that the flag is not a sacred totem, to be insulated from First Amendment activity (most recently in last year's *Street v. New York*).

Under these standards, the CLU's complaint says, the plaintiffs clearly have the

right to wear the symbol in order to express publicly their conviction "that patriotism and love of country are co-extensive with a desire for the immediate cessation of American military operations in Viet Nam."

The suit is handled by Attorneys Burt Neuborne and Carl Binder.



©1969

Sale or display of this decal — the peace symbol superimposed on a portion of the American flag — is illegal under New York law, according to the Nassau County district attorney. The CLU has gone to court to stop threatened arrests.

was held 36 hours without medical treatment though his head swelled and turned blue.

On Nov. 16 he was taken to Bernalillo County Medical Center, where it was determined that he had suffered a "subdural hematoma," a swelling inside the skull. Brain surgery immediately was performed.

He was hospitalized 43 days and underwent further surgery. During his hospitalization, all charges against him were dropped. But when he was discharged,

partially paralyzed, he was immediately arrested again. There was no arrest warrant, and there were no charges. He was jailed approximately five hours.

Jail officials told the press the man had injured himself by falling out of bed in his cell. But his jail cell had no beds. Later, the officials claimed the man had hurt himself during an epileptic seizure. The man has no record of epilepsy.

CLU Attorney is David H. Pearlman. The Legal Aid Society is paying costs.