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The Algiers Motel Incident, by John Hersey

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BOOK REVIEWS

THE ALGIERS MOTEL INCIDENT. By John Hersey. New York: Knopf, 1968. Pp. 406. \$5.95.

During the early morning hours of July 23, 1967, —a Sunday —Detroit police raided an after-hour's drinking spot ("blind pig") located in the predominately black Tenth Precinct. Instead of an expected small number of late-drinking patrons, the police found themselves in the midst of eighty-two revelers gathered to welcome home two veterans of the war in Vietnam. In spite of the hour, a sizeable crowd collected while the police went about their business of transporting their unexpected catch to the stationhouse. Shortly after 5:00 a.m. a bottle smashed through the rear window of a police car at the scene of the raid, and the riot that was to claim forty-three lives during the next five days had begun.

The dead included three black youths, Carl Cooper, Aubrey Pollard, and Fred Temple. Their battered and shot-gunned bodies were discovered during the third night of rioting in an aging annex of the Algiers Motel—a haven for a "pleasure-loving black clientele"¹—located near the heart of the riot area. A number of city policemen, state troopers and national guardsmen had just left the building after investigating a report of sniper fire, but apparently no official report was filed by any officer regarding the presence of the bodies nor the manner in which the young men were killed. The first newspaper accounts wrote them off as snipers killed in a gun battle with order-restoring forces. But there were survivors of the raid on the Algiers, and it soon appeared quite possible that the young blacks were the victims of criminal homicides committed by some of the peacemakers.

Along with the gaggle of post-riot analysts that descended upon Detroit came John Hersey, who, he tells us, intended to write generally about the disturbance, but soon perceived in the gruesome events at the Algiers Motel

all the mythic themes of racial strife in the United States: the arm of the law taking the law into its own hands; interracial sex; the subtle poison of racist thinking by 'decent' men who deny they are racists; the societal limbo into which, ever since slavery, so many young black men have been driven in our

1. J. HERSEY, *THE ALGIERS MOTEL INCIDENT* 10 (1968). (Hereinafter cited as *HERSEY*). All references to the text are from the paperback edition published simultaneously with the hard cover edition.

country; ambiguous justice in the courts; and the devastation that follows in the wake of violence as surely as ruinous and indiscriminate flood after torrents.²

Men are still to be judged for whatever role they may have played in the killings, beatings and indignities administered to the inmates of the Algiers Motel on that tragic Tuesday night. In a revealing second chapter Hersey explains why he did not stay his pen. First, trials and appeals take too long; second, he does not want to disappoint those with whom he has most closely identified—the families and friends of the dead youths; third, his immersion in ghetto culture while preparing this account provided him with new insights into the depths of the racial crisis in the United States which must be shared without delay.

What Hersey purports to write about is “unequal justice . . . the prime cause of the deep anger of . . . the young black males.”³ Specifically, the problem lies in the black man’s *perception* of policemen and the judicial process as tools manipulated by whites for the continued suppression of the black. This is no doubt an accurate observation, but hardly original. If this is the message of the book, and it seems that it is, then the fate of the men in the dock has been unjustifiably jeopardized. To write of injustice he is willing to risk injustice.

It is important to remember that this book was written in the wake of profoundly shocking events—Detroit, Newark, Martin Luther King, Jr., Robert Kennedy. Close reading of the author’s apologia reveals less precisely stated motives for the publication of this basically unsound book. To his black constituency he seems to cry out: Love me for I love you! I share the guilt for your repression; for causing riots; for the deaths of King, Cooper, Pollard and Temple. I have flayed myself with the likes of Baldwin, Cleaver, Jones and Malcolm X. I have lived with a black farmer in Mississippi. I want to understand; and I will try to make my fellow white racists understand. The final *mea culpa* is a pronouncement that the writer will accept no money for this work. In short, what the reader shares is not revelation, but catharsis.

A major fault with Hersey’s book, his idealistic motives notwithstanding, is technique. The vehicle he has chosen to use is that of a first-person reconstruction of his investigation. But unlike Truman Capote’s *In Cold Blood*, a documentary novel, a fictional account based on real events, *The Algiers Motel Incident* purports to reconstruct fact, often using literary rather than reportorial techniques to do it. Early in Chapter II, entitled significantly enough, “A Dangerous Account,” Her-

2. *Id.* 25.

3. *Id.* 29.

sey informs the reader that he will not write in the "fraudulent tradition of American journalism," nor will he attempt complete "objectivity" because "[h]uman-life is far too trembling-swift to be reported in whole: the moment the recorder chooses nine facts out of ten he colors the information with his views."⁴ This disclaimer does not keep Hersey, however, from structuring his fragments in such a manner and in such language that it becomes difficult to separate fact from allegation. The titles of the first two chapters communicate immediately to the reader where his emotions should lie: "The Odor of a Case"; "Three Cops and Three Days." And, is it in the interest of justice to list at the beginning of the book the three dead blacks side by side the three policemen in the cast of persons involved in the incident? By doing this, Hersey points, subliminally at least, to a hardened fact, that the policemen are indeed guilty of murder. Furthermore, Hersey moves through the book in the best tradition of the omniscient-author, choosing what to tell us about each of the characters and events, and guiding the reader in various ways to the particular view that he himself has come to have. He uses the words of the characters themselves to portray their personalities, but the reader is never sure of the editing done by Hersey, and, quite often, too conscious of Hersey's own bias in the arrangement of or in the commentary upon the material selected. In its present form the book must be read at least twice for the reader to follow the chronology of the case. What does come through in a first reading, amidst the confusion and fragmentation of Hersey's account, is his own feeling of compassion for the victims, his personal desire to cleanse himself of the sins committed by all whites against blacks, and his questioning of what has gone wrong in a society which tolerates, and even institutionalizes, such wrongdoings.

Hersey appears to be a virtuoso Greek actor changing masks according to which role he wishes to play; we can identify Hersey the investigator; Hersey the passive reporter; Hersey the witness; Hersey the prosecutor; Hersey the judge; Hersey the jury. The only role he eschews is that of defense counsel. In presenting his case Hersey has been spared the evidentiary limitations that would otherwise obtain in an adversary judicial proceeding. His pages are filled with masses of unsworn, untested statements from interested parties; hearsay; press reports; background interviews with the accused police officers; court records; and, perhaps, even an inadmissible confession or two. Like any good prosecutor, Hersey has developed a theory of his case: "[T]he killings in the Algiers were not executions of snipers, looters, or arsonists caught red-handed in felonious crimes in the heat of a riot, but rather

4. *Id.* 27.

. . . they were murders embellished by racist abuse, indiscriminate vengeance, sexual jealousy, voyeurism, wanton blood-letting and sadistic physical and mental tortures characterized by the tormentors as 'a game.'"⁵

Out of the confusing collage of the materials selected by the author emerges his view of what happened at the Algiers: Near midnight on the third night of the disturbance, July 25, a nervous and fatigued National Guard warrant officer, Theodore Thomas, heard pistol-like shots near the Algiers Motel and immediately called his command post to inform them that he and his squad were under fire. The message was transformed into "army under heavy fire" over the police radio and soon a large contingent of city police, state police, national guardsmen and private guards were collected outside the Algiers annex which had been identified by a private guard as the point from which the shots were fired. These shots, Hersey theorizes, came from a blank starter pistol with which some of the young men inside the motel annex were playing practical jokes on one another. Zeroing in on the annex, the guardsmen and the police laid down a barrage of fire before rushing the building. Although the residents were pinned down, it seems that no one was injured by the fusillade. The first killing, according to Hersey, must have taken place as the first attackers entered the rear of the annex. The victim was Carl Cooper who may have been trying to escape or hide from the police as they entered the building. Much to the chagrin of Hersey none of the suspects will admit to being one of the first to enter.⁶ Once inside the building, the police and guardsmen collected all the occupants and placed them in a "hands on wall" shakedown position in the hallway-lobby on the first floor. A room by room search produced nine black men and two teenage white girls. They were beaten, tormented and abused by the officers and guardsmen, and by one of the private guards who, incidentally, was a Negro. At first the beatings were directed at producing admissions of sniping or, at least, locating a weapon

5. *Id.* 245-46. The same thought is expressed elsewhere: "[A]s it turned out the boys were not executed as snipers at all. They were executed for being thought to be pimps, for being considered punks, for making out with white girls, for being in some vague way killers of a white cop named Jerry Olshove, for running riot—for being, after all and all, black young men and part of the black rage of the time." *Id.* 195.

6. There are some bothersome questions when it comes to accounting for the death of Carl Cooper. Hersey reports a statement by a state trooper that when he entered the motel (trailing city police) he observed a body lying in one of the rooms surrounded by what appeared to be coagulated blood. Supporting a theory that Cooper may have been killed earlier for having double-crossed black confederates is a statement given by a middle-aged white woman that she saw armed black men enter the motel shortly after midnight and that she heard shouted an accusation of "holding out," followed by a shot and a girl's scream. Hersey suggests that her statement was fabricated and, apparently, investigation by police led nowhere on this point.

or weapons. No guns, not even a starter pistol, were found in the motel.

Chiefly responsible for this procedure, says Hersey, were three Detroit policemen, Ronald August, Robert Paille and David Senak, as well as Thomas, the National Guard warrant officer. The officers, like Thomas, had been putting in long tours of duty since the riot had begun early the preceding Sunday. They had witnessed during this period the complete breakdown of respect for law and private property. They were enraged by the death of a fellow officer who had been shot the previous day while struggling with a Negro looter. One of the officers, David Senak, had already played a role in the killing of two men during the riot. None of the officers liked the idea of black men being in a seedy and disreputable motel with white girls. The core of racism is sex, according to another Hersey pronouncement, and it was sex that darkened the mood of the tormentors: "It was now that a final sea change toward horror occurred, spreading subtly from the loins of some of the men of law and order."⁸ To those in the line, an officer hissed, "We're going to kill all of you black-ass nigger pimps and throw you in the river. We're going to fill up the Detroit River with all you pimps and whores."⁹ Then the grisly "games" began. A knife was thrown to the floor and, one by one, the youths were told to pick it up and "defend themselves." The girls were stripped of almost all their clothing and asked, "Why you got to fuck them? What's wrong with us, you nigger lovers?"¹⁰ Then one of the officers began to play in earnest. He took one of the men out of the line and into a room and closed the door. He told the man, Roderick Davis, to lie face down on the floor. A shot was fired into the floor or the wall and the officer went back into the hallway to announce that he had killed Davis who, terrified, was still lying face-down on the floor. The warrant officer then played the same "game" with another of the prisoners, Michael Clark.¹¹ Next, the first policeman handed his shot-gun to Patrolman Ronald August, and he took a third Negro, Aubrey Pollard, into a separate room. Either August didn't

7. The testimony regarding the beatings is corroborated by statements of state policemen who were present, but who left because they did not like what they saw. They made no attempt to aid the victims. HERSEY 209-15.

8. *Id.* 228.

9. *Id.* 229.

10. *Id.* 231.

11. Hersey's description of this "game" recalls a World War II movie starring Paul Muni as the leader of a band of Russian guerrillas. They had captured a number of German soldiers, one of whom was believed to be an officer, but who had changed to an enlisted man's uniform. Muni conducted an interrogation pointed at discovering the officer by taking the soldiers one at a time to some inner recess of the cellar that was his headquarters, firing a shot into the ceiling and then knocking the man unconscious with his fist. When the turn of the officer came, he owned-up. Perhaps one of the policemen at the Algiers was a devotee of the late show.

know that the "game" was being played for "fun"—that is, incredible as it may seem, he *believed* his fellow officers were really killing people and he followed suit—or, as he later indicated, Pollard attempted to seize his gun and he fired in "self defense." When August emerged from the room, Aubrey Pollard lay dead of a shotgun blast in his chest. After that, the annex quickly cleared. According to the state police, they left before any of the shootings, and the national guard departed quickly after Pollard was shot. The rest of the people in the line were told to leave and not to look back. The final victim, Fred Temple, according to his friends who said they were with him in the line-up, either stayed inside or returned to his room to get his shoes. His shot-gunned body, with pieces of wadding in the wounds, was found in the same room with the body of Aubrey Pollard.

Police brutality was no myth, no empty charge after the incident at the Algiers Motel. It seems clear that unjustified beatings took place and that three men died violently.

The full magnitude of the Algiers Motel incident was not realized until a few days after the event and then apparently not due to the investigative zeal of the police. Eventually, all police officers known to be present at the Algiers on the night of the killings were called in by their superiors to account for their actions. At first August, Paille, and Senak filed reports denying individual or collective responsibility for the beatings and the deaths. However, August soon made a request to change his statement to indicate that he had shot Aubrey Pollard, but only after Pollard had made a grab for his gun. No mention was made of the "game." Robert Paille, after filing an exculpatory report, stated orally to a superior that he and Senak had shot one of the men. Paille requested counsel before making any further statement and, supposedly on advice of counsel, he made no further admissions. Senak made no admissions whatsoever linking him to the deaths.

Charges of murder were filed against August and Paille. The evidence chiefly relied upon by the prosecutor were the statements given by August and Paille to their superiors on the day they were summoned to headquarters. In addition, there was the testimony of Thomas, the warrant officer, who apparently witnessed the shooting of Pollard by August. None of the Negro witnesses could testify as to actually seeing the shooting. At a preliminary hearing before a judge of the Detroit Recorder's Court (a judge who Hersey suggests was not particularly concerned with the feelings of Negroes),¹² the admissions made by Paille and August were ruled inadmissible due to the failure of their

superiors initially to warn them of their right to silence and their right to counsel in accordance with the standards established by the Supreme Court in *Miranda v. Arizona*.¹³ The judge ruled there was insufficient evidence, without the excluded statements, upon which to proceed with the murder charges against Paille, but that the testimony of Thomas established sufficient probable cause to continue the prosecution against August. Paille was set free, and August was released on a 5,000 dollar bond.

Eventually local authorities charged both Paille and Senak with conspiracy to beat, and abuse the prisoners at the Algiers. At a preliminary hearing the testimony of even the black witnesses was so weak and equivocal as to result in the dismissal of the charges. Hersey explains the reluctance of the witnesses in terms of their own disillusionment with the legal system and their fear of reprisals from the Detroit police. Finally, a federal grand jury did return an indictment against all three officers for conspiracy to violate the civil rights of the persons they had captured at the Algiers,¹⁴ the same charge used to prosecute several Mississippi officers in connection with the deaths of civil rights workers Chaney, Goodman, and Schwerner.

It is out of all this, says Hersey, that fuel for the fire next time is produced. Regrettably, he proceeds to fan the spark that would ignite it. As we have noted, his central theme is "unequal justice"—that is, the black man sees himself continually put down by the white man's policemen and courts. But when white men, especially white policemen, are accused of murdering black men, the system that operates so swiftly and surely on *black men* founders. Again, the accuracy of this description of a perception cannot be denied, but it is important to note that while the perception has a foundation in reality, ignorance turns it to distortion. Hersey makes no attempt to separate these two factors. Indeed he seems content to magnify the distorted portions of the picture.

The aspect of the case that most dismayed the black community (and which led to their convening a mock trial) was the release of Paille on what they regarded as a "technicality"—*i.e.*, his confession was obtained before advising him of his right to counsel and his right not to incriminate himself. Hersey goes so far as to suggest that the police *deliberately* took the statements of the officers without the *Miranda* warnings knowing that any statement would then be inadmissible in evidence against them.¹⁵ But here it seems he should have at least remarked on the rather extraordinary reversal of roles in this case. Under normal circumstances

13. 384 U.S. 436 (1966).

14. 18 U.S.C. § 241 (1964).

15. HERSEY 266.

it will usually be the poor, the ignorant, and in many cases, the black, that will be protected by the rules governing the admissibility of confessions. There is also a suggestion that because these men were police officers, the men who are to *give* the warnings to others, they were in no need of being cautioned.

There are at least two flaws in this argument. First, there is the language in *Miranda* that, when a person is subjected to custodial interrogation,¹⁶

[t]he Fifth Amendment privilege is so fundamental to our system of constitutional rule and the expedient of giving an adequate warning as to the availability of the privilege so simple, we will not pause to inquire in individual cases whether the defendant was aware of his rights without a warning being given. Assessments of the knowledge the defendant possessed, based on information as to this age, education, intelligence, or prior contact with authorities, can never be more than speculation; a warning is a clearcut fact. More important, whatever the background of the person interrogated, a warning at the time of the interrogation is indispensable to overcome its pressures and to insure that the individual knows he is free to exercise the privilege at that point in time.¹⁷

Second, there is the experience of some of Hersey's own colleagues at Yale University who, when faced with essentially non-custodial interrogation by FBI agents as to possible draft law violations, and even though aware of their right to remain silent, "felt pressed to answer at least some of the questions put to them by the agents."¹⁸

Not so much as a paragraph is included by Hersey to explain the possible legitimate bases for the court's ruling as to the statements of August and Paille. If, indeed, the ordering of police officers to assemble at headquarters to report on their actions in or around an area where a suspected crime had taken place, with the finger of suspicion pointed at the police, and with the added fact that apparently the officers do not

16. "By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." 384 U.S. at 444.

17. *Id.* at 468-69.

18. Griffiths and Ayres, *A Postscript to the Miranda Project: Interrogation of Draft Protestors*, 77 *YALE L.J.* 300, 318 (1967). "For full achievement of *Miranda's* values, a suspect needs even more than a sympathetic explanation before his interrogation—he needs a sympathetic advocate during the interrogation. Only in this way will most suspects be able to assert a measure of control over the situation, overcome inevitable nervousness, and avoid the impact of perceived (but irrelevant) social rules operating in a situation structured and manipulated by a professional interrogation." *Id.* at 318-19.

feel free to leave, amounts to "custodial interrogation,"¹⁹ then *Miranda* warnings should have been issued.

What is really extraordinary in this context is that the ruling of inadmissibility was handed down at a preliminary examination—a proceeding designed to determine whether there is probable cause to continue the prosecution. Most criminal defense lawyers will agree that a ruling on a close question of admissibility of evidence at this stage of the criminal process is almost invariably made in favor of the prosecution.²⁰ Since the rulings on the admissibility of the confessions required the resolution of some very close questions concerning the application of the *Miranda* and *Escobedo* doctrines, the ruling of the examining magistrate after only a lunch hour deliberation, was, to say the least, surprising.

Even though the prosecution of August proceeded on the strength of evidence apart from his own admissions, there was the indication that he would rely upon a theory of self defense. Again the reaction of the black community was that this would lead to the exculpation of August for the death of Aubrey Pollard. Hersey does not point out, although he should have, that given his theory of the case, the killing of Pollard could hardly be privileged. If August was participating in the "game" then he would have to have been fully conscious that the person who believed he was about to be shot in cold blood would attempt to save himself. The fact that the person who reasonably viewed himself as an intended victim grabbed his supposed attacker's gun would in no way confer upon the officer a privilege of self defense. That privilege, in this instance, lay with Aubrey Pollard.

This raises another very interesting point left unexplained by the author. He spends a great deal of time developing the character of Senak with heavy concentration on Senak's obvious enjoyment of his work as a police decoy used to attract solicitations from prostitutes and homosexuals, his hostility toward "pimps," "whores," and "queers," and his apparent mistrust of women in general.²¹ When the time comes to identify the officer who was chiefly responsible for the abuse of the Negroes and white girls in the Algiers Motel and for the "death game" that followed, Hersey makes clear *his* conclusion that the officer was David Senak. Senak was never charged with murder, but if his role as chief tormentor and initiator of the "death game" can be established as

19. See note 16, *supra*.

20. See, e.g., *Administration of Justice in the Recorder's Court of Detroit*, in PRESIDENT'S COMM'N ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE COURTS 129, 130 (1967).

21. HERSEY 76.

clearly as Hersey suggests that it can, why was he not so charged? The criminal lawyer would see in the actions ascribed to Senak a rather strong basis for a charge of criminal homicide. If, as Thomas testified,²² Senak pulled the first man out of the line, took him into a room, told him to lie on the floor, shot to scare him and to convey to the persons outside the idea that he had actually killed the man, and if later the warrant officer repeated the same procedure with Senak's approval, and if August proceeded in the manner that Hersey theorizes, there are at least two bases for holding Senak criminally responsible for Aubrey Pollard's death. First, like August, he would have been conscious of the risk that Aubrey Pollard would not be a passive player of "the game" and would attempt to save himself from a criminal assault. Since Senak was at least partially responsible for the confrontation between August and Pollard, that responsibility would extend to the death of Pollard.²³ Second, if August was induced to believe that Senak and Thomas had killed the men that they had taken aside, then Senak's handing of the gun to August and allowing him to take Pollard out of the line was surely such a willful, wanton and grossly reckless act with respect to Pollard as to make Senak responsible for Pollard's death. All of this proceeds upon the assumption that the "game" was played as Hersey describes, and there is sworn testimony by Thomas to that effect.²⁴

Despite its total one-sidedness, the book does convey rather powerfully the ghetto dweller's sense that the law and the police are not institutions designed to protect him, but to oppress him. This theme is developed through long quotations of Aubrey Pollard's mother and a brother, Robert, who at the time of Aubrey's death was serving a prison sentence for robbing a paper boy of seven dollars. Robert Pollard is an eloquent spokesman for his generation of restless young men. He is imprisoned not only by concrete block and steel bars, but by the white man's control of his entire being: "Everything have a law to it, see. Every time you walk out a door, anywhere you walk, you breaks a law. See, *because they got so many laws . . . They done covered the earth with cement and you can't spit on it.*"²⁵ As perceived by Robert, cops harass him, beat him, come uninvited into his house. When he is charged, his lawyer tricks him and the judge gives him a stiff sentence because he has no money for a bribe. We may, of course, explain to him the legal controls on police arrest practices, the intricacies of the law of

22. *Id.* 232.

23. See J. HALL, *GENERAL PRINCIPLES OF CRIMINAL LAW* 279-81 (1960); *Commonwealth v. Atencio*, 345 Mass. 627, 189 N.E.2d 223 (1963).

24. HERSEY 232-37.

25. *Id.* 172. (Emphasis added.).

search and seizure, the process of plea bargaining, and the criteria for proper sentencing. We may also explain to him the presumption of innocence and that it is really a sign of maturity in a legal system when a man accused of murdering his brother is released on bond. What Robert does know is that when he is accused of robbery he spends his time before trial in jail because he can't afford 1,000 dollars to pay a professional bondsman for putting up the 10,000 dollars necessary to buy his freedom. Patiently, we must explain to Robert that in the case of the policeman accused of killing his brother the bail system is operating as it should—*i.e.*, it releases from pretrial detention those who pose no serious risk of flight—and that in his case the system did not operate properly. Also we can tell Robert that we know that some criminal defense lawyers are interested only in persuading their clients to plead guilty and collecting their fees,²⁶ but that is not how lawyers are *supposed* to act. All of this, to Robert, will sound like a great put on. Anyone who has spent any time in the lower courts of our large cities will have to admit that Robert's view of reality may be only slightly distorted. But it is much too easy, as well as inaccurate, to explain the shortcomings of the criminal process in terms of black and white. Negroes have no corner on injustice. They share it with all the poor and ignorant over whom the system, as it operates, tramples.²⁷ And even when the system operates as it should, the process is rarely explained in meaningful terms to those whom it affects. It is abundantly clear that we must humanize the criminal process, particularly in the lower level courts where the citizen most often sees the law, and lawyers, in operation. And yet, the humanizing process must reach all areas in which injustices are committed, or communication and trust will never exist.

In this connection, Hersey has reproduced in "A Mother Speaks"²⁸ one of the most touching accounts of heartache and *pathos*, and a painful insight into the unreason which can become unleashed when all hope of justice is lost. Man then, seems to regress, to the seemingly more equitable rule of "an eye for an eye." Mrs. Pollard can say in the same breath, "And all I want is justice done to this man", and then soon after, "Only thing I wish I could do is kill him. I tell you how I feel. I'd like to see him have the same death he gave to my son. Only just a little worse."²⁹ The real tragedy is that Hersey himself seems unsure as to

26. See Blumberg, *Lawyers With Convictions*, TRANS-ACTION, July-Aug. 1967, at 18; see generally, A. BLUMBERG, CRIMINAL JUSTICE (1967).

27. Wald, *Poverty and Criminal Justice*, in TASK FORCE REPORT, *supra* note 20, at 139. Foote, *Vagrancy-Type Law and Its Administration*, 104 U. PA. L. REV. 603 (1956).

28. HERSEY 279-85.

29. *Id.* 282-83.

what course justice ought to take; he seems content to describe the illness, but does not feel the responsibility to help search for cures.

Robert Pollard who observed, "I think the police force is prejudiced—against people altogether,"³⁰ may be closer to the mark than Hersey who would explain police action toward Negroes in terms of racism. What, on the surface, may appear to be a manifestation of racial prejudice is likely to have deeper roots in the policeman's perception of his role and his tendency to "generalize" or "stereotype" those with whom he most often comes into contact in stress situations. Based upon lengthy observations of police in action, Jerome Skolnick has observed that the policeman, due to his working environment, has a tendency to develop a "perceptual shorthand to identify certain kinds of people as symbolic assailants, that is as persons who use gestures, language, and attire that the policeman has come to recognize as a prelude to violence."³¹ The Negro becomes a member of a target group, like bearded college students, toward which policemen react instinctively out of apprehension.

Many authors such as James Baldwin have stressed the special hate which the ghetto dwellers feel for the white policemen in their midst.³² Elsewhere in his valuable work, Skolnick notes that what writers like Baldwin, and now Hersey, have explained as racial discrimination stemming from the alienation of the policeman from the Negro community is "in many respects simply a special case of the alienation of the police from the whole community—so that what Baldwin sees as a function of race appears in important degree to be a function of police-civilian relationships in general."³³ Likewise, unlawful use of force by police officers, even when applied to Negroes, may stem from factors considerably more complicated than feelings of racial prejudice, including the victim's economic status, his actual or imagined character or constitution, and his particular response to the officer's authority.³⁴ The recent events at the Democratic Convention in Chicago lend force to this conclusion.

Of course none of this alters the Negro's perception of the policeman as a person who harbors a deep seated resentment toward him simply because he *is* a Negro. Nor does any of this mitigate in any way the seriousness of the actions of the police officers at the Algiers Motel.

30. *Id.* 175.

31. J. SKOLNICK, *JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN DEMOCRATIC SOCIETY* 45 (1966). The remarks of one of the police officers involved in the incident came close to this thesis. HERSEY 87-88.

32. J. BALDWIN, *NOBODY KNOWS MY NAME* 65-67 (1962).

33. Hazard, *Book Review*, 34 U. CHI. L. REV. 226, 233 (1966); SKOLNICK, *supra* note 30, at 49; see generally, Rinella, *Police Brutality and Racial Prejudice: A First Close Look*, 45 J. URBAN L. 773 (1968).

34. Rinella, *supra* note 33, at 793.

To note these matters is simply to point out the lack of depth in Hersey's analysis.

The book ends on an inconclusive note. The trial of Ronald August was scheduled for June 5, 1968, the day upon which Robert Kennedy was assassinated in Los Angeles. The defense asked for and was granted a continuance on the ground there was a serious question whether, on that day, "any defendant in a jury trial could receive a fair and impartial trial, free from any inflammatory feelings. . . ." ³⁵ Hersey seems disappointed by the postponement:

This trial and all the others growing like weeds around the late Algiers Motel would doubtless be reconvened and re-postponed and heard and appealed and retried and finally brought to the weary end of the road of judgment, if not of justice. But surely there could not be, in any of these trials, another coming together like this one, demanding by its conjunctions answers to the 'inflammatory' query: What is wrong? ³⁶

The publication of his book with its possible effect on potential jurors resulted in further postponement of the trials growing out of the Algiers Motel incident. If a desire for a quick and unambiguous form of "justice" was part of Hersey's motivation, he has added to this complex situation his own touch of irony.

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35. HERSEY 333.

36. *Id.* 334.

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