

2/21/71

Dear Paul,

Thanks for the Epstein piece, which came yesterday.

There was a truly remarkable coincidence after our Friday's conversation on this. I left a little earlier than usual to bring Lil home so I could stop off at the hospital to spend a few minutes with her uncle, who is ill. As soon as I turned the motor on, because I keep the car radio tuned to WTOP for news, there were Cronkite's dulcet tones interpreting this precisely as I told you it would be taken, not as it superficially seems designed to be interpreted. He reached immeasurably more people than the Post's editorial, which will, I predict, be used the same way. Here he was telling the whole country that this dedicated scholar, to whom we are all so indebted, had made his own detailed and impartial study and what it proves is that there is no campaign of any kind against any blacks, least of all militant blacks. His emphasis was not that the figure Garry gave is exaggerated, but that there is no police repression of any kind, and thank Epstein for doing what the press should have done for itself, doing his own investigation, and by God! here is the proof.

This whole thing is entirely unlike the clear intent of that well-intentioned Post editorial. It is true that working against close deadlines, the papers are always confronted with such problems, and people being humans, the kind of error for which it atones is inevitable. It is because I was and am convinced that the purposes and uses of the Epstein piece are not good or healing that I am also convinced that this editorial, for example, will be twisted to the same ends.

Last night I read about half of the piece. I intend to finish it today and if I can find time, write a memo on it, for you and for my own files. I happen to fear the country is going to burn, and that such things add fuel and inspiration. But I write this in advance, having gotten up early to do it, complete reading the piece, and make these notes, because I want to propose a simple intellectual exercise to you on it.

Let me give you a context for it. Assume, as I do, that the decent elements of the press have over-reacted to Agnew and instead of fulfilling their function of bird-dogging the government on such things are doing it to themselves, and on the wrong issues. So, instead of doing your own commendable agonizing, for each reporter with honest intent faces this same agony that every editor, every paper, faces, reread this piece critically. Try to look for what may be wrong with it, analyze its approach and emphasis, read its self-representation with care, as you would if you were taking it apart. Don't begin with the sympathy your underlining indicates. Even though I read it too fast, because I also have time pressures, I encourage you not to. You did small bits of confabulating. For minor example, you said that Garry gave Epstein his list. The error is quite minor and reflects no worse than a sympathy for the article that indicates a non-critical reading. The list came from Garry's office. It is, in fact, in response to a request to Garry for it. But Garry did not personally send it to Epstein. I think if you subject this to the kind of treatment my work gets, you'll be asking yourself some questions you did not pose to me. So that you can do this independently, I'll enclose my memo separately so that you can avoid being influenced in advance if you do this. And so that you can see that my own analysis is not new, when next you are here you can see how I have and have had my own clippings and other material on this subject files. One other thing: There is a military project called "Project King Alfred". Another writer's file on it was mailed to me but never got here. Be alert to it, for it is secret. I know a man to whom it was shown and two with whom he discussed it. It seems quite relevant.

Sincerely,

2/21/71

Dear Paul,

So you can understand that I have time pressures not unlike those with which you and the Post live (and am therefore subject to similar error). I begin by telling you that it is 8 a.m. Sunday morning, I wrote you the earlier note, and completed the Epstein piece, not yet having had breakfast. This, I hope, will be interrupted by that, if not also by other needs, which will prevent my making this as detailed as I'd like for my own file, if not for your information.

There is a certain amount of gratification in this for me, for my reading, with which you and others may not agree, tells me that it completely confirms my analysis before seeing the piece. And in even the finest detail. For example, you may remember, I asked you if this piece said it was the end product of his own personal inquiry and you said first yes, and then changed this to be that it seemed to say that, and when you found no such thing, you found a few quotes which do seem to say that. Well, you correctly got the impression it was intended to convey, that this was the result of a personal investigation, that it was impartial, detached and complete, and I am more satisfied than when I told you that this is entirely false and that the dishonesty of intent is in it reflected. It is, with some skill, presented as Epstein's own work. I am now quite satisfied that my interpretation to you of what Mitchell said on CBS TV is quite correct, that all of this was spoon-fed to Epstein, to Mitchell's advance knowledge, and that, in advance of the writing, in his own formulation, it would say what he wanted said.

First I suggest you ask yourself some questions. I am not able to sit down and organize either my thoughts of this writing, so there may be more of this. What does the New Yorker pay for a piece like this? How much work can it justify on the part of a writer? Suppose, in advance, as I suspect is here the case, there is an advance deal on a ~~sixthousandxxxxxxx~~ book that is to expand on the article? How much advance expense, by author or publisher(s), can this justify? And compare this with what the articles presents itself as representing. Could Epstein have gone to all those scattered cities, from New Haven to San Diego, and interviewed all those witnesses? Would it be normal for all those police departments to have turned him loose in all their records for him to select what he wanted? Is it within physical possibility for an energetic, hard-working man, which Epstein isn't (and I think he has college employment which would keep him somewhat fixed in where he has to be), to have interviewed all those people this articles presents him as interviewing? Like the Wesley case in Chicago, where he said that Wesley said he had told police investigators and things like that? I suggest that this Wesley quote came from an FBI report made available to him, and I further suggest, as I had before reading this, that all of his stuff was fed him by or from the FBI. This is not as exceptional as it may seem. Remember the Oberstreet book of which I told you?

Before you came to Washington, the fact that government sponsored such things was fairly well publicized. It has not been recently. I suggest not that this is because it has ended but because it has been done with more care. Some of the most improbable people were found to be writing for government pay and doing other things with government money, often CIA and USIA. What comes to mind without research includes the New Leader, the New Republic, Norman Thomas, Praeger, and these alone should suggest that liberal or liberal-seeming people and publications are sought after for such uses. The AFL-CIO has also loaned itself to such things, as you can learn from checking Schlesinger's Thousand Days, which has a good index, in the case of Cheddi Jagan and Uiana alone (I think there are others there).

Now I know something about Epstein, his work and his personality. One of the most interesting stories came to me from an editor who had been his classmate at Cornell. He is a gonna-get-ahead guy who is out to make it, has the success formula, and is making it.

I don't recall with certainty the confirming source, but my first was Ann Weingarden, an editor at Grove, later, when she was ill, part of Parallax. She told me that while they were at Cornell together Epstein actually cowed other students into financing a trip to Alaska for him by selling shares in himself or whatever it is he was going to do there. While I don't presume you will want to check it, if you should, you should be able to locate Ann, who was about to be hospitalized when I saw her, through Peter Workman, whose small publishing company is in his name, on East 51 St in NYC.

The fiction that Epstein is a ~~taxman~~ "scholar" is, in part, the fault of the Post and just such (unapologized) pressures of time. Of all the writing on the JFK assassination, when examined, his will be seen to be the least scholarly. The air of scholarship comes from the magnificent notes, which were not his work and of which he was utterly incapable. They were done by a brilliant and dedicated woman, Sylvia Meagher. Of what can be called serious writing in this field, Epstein's is not only the least scholarly, it is also the only one to use standard repretorial techniques. He did no more than interview those parti pris, and got from each what each wanted used in his own self-justification. What emerges is the most vicious blaming of Warren for the Commission's error, something entirely lost on Warren's "liberal" friends, the most awful accusation of a government conspiracy lost in the pseudo-scholarly language, and all based on the assumption, never in any way addressed, that Oswald was the assassin. If you read the book and will think of "Inquest" now, not as of the time of appearance, you can understand that what Epstein really says is that Warren did a bad job, that the bad job was Warren's personal doing, and that the FBI did the dependable work, even on the autopsy. Liebelor gave Epstein classified materials and Epstein used them in defense of the FBI, whereas they actually constitute the most serious self-indictment of the FBI.

Epstein's New Orleans writing is propaganda, second-hand, and falls far short of the indictment of Garrison that is possible partly from incompetence, partly because it clearly is not Epstein's original work. I understand he spent about two days in New Orleans, and much of them with Tom Bethell, who is probably even more incompetent and much lazier than Epstein. Tom was one of my sources, and he was, while working for Garrison, opposed to him. He told me he gave Epstein some of his stuff and that Epstein was there for so short a period. My other source (which shows I'm not anti-cop, as Louis Ivon, a professional policeman who was working his way through college, now has a degree in criminology, and right now has gone to a Texas college for some specialized further education. I confess that I like Louis, so I may be inclined to be uncritical, but I trust and believe him, and he said Epstein was there for but two days. As Garrison's police-department-assigned chief investigator, he was in a position to know.

So you will not misunderstand (and I think you know something about my attitude toward Garrison and his "investigation"), I am not his defender. I spent more time investigating what may be related to the assassination in New Orleans that he did. I never investigated Shaw, and what I learned of him was incidental to other things. As when I was (as I still am) seeking to identify a second man helping Oswald, one of my sources was a man close to Shaw, a man still his friend. Garrison and I have never been what you could call friends, and I think my mere existence gives him affront. But I learned in advance of this New Yorker piece, and I wrote the New Yorker to ask for time and space for the presentation of the other side. They never answered. The Sunday Times mag. had along and libellous piece by him (and the libel was pointless and needless, reflecting his purposes, not his "scholarship" or dispassion). I asked them for space to answer or for a retraction. They did not deny either the inaccuracy or that it was libellous. They merely refused me. So, what Epstein did is crap, and the serious, dispassionate stuff of Garrison that could serve serious purposes in history has not been done. Like Lane's criticisms of the position of the press in the reporting of the assassination, it is dishonest and historically worse than valueless, for upon impartial examination it will not stand up and will give scholars of the future entirely the wrong idea. In each

they can, in the future, amount to defenses of what they criticize, so great are their excesses and their errors.

With this background on Epstein, which you need not believe and is no essential to any analysis of this current piece, what does he actually do? Is it worth all this space and effort to say no more than that Garry's or anybody else's statistics on how many Panthers have been killed by police are wrong? Is this really what it says or addresses? Is it, in fact, the crux or the issue?

I think all answers are negative. And any reading of the article reflects that what he is really arguing is that there is no anti-black repression, that there is no federal inspiration or coordination, and his purposes are those shown by the Post editorial of commendable intent, by the Crankite reporting. This occurs through in various formulations. I may note others as I thumb through the article, which I've also skimed up, but a convenient formulation is in the conclusion, which is not that Garry's figures are wrong but that

"The idea that the police have declared a sort of open season on the Black Panthers is based principally, as far as I can determine, on the assumption that all the deaths cited by Garry Charles Garry - twenty-eight or twenty or ten - occurred under circumstance that were similar to the Hampton-Clark raid. This is an assumption that proves, on examination, to be false."

It is also an examination not in any way made in the foregoing enormity of defenses of the police and FBI. He never examines it in any way. His technique is to equate this with not killings but a single representation of their number. At the beginning, where he quotes Abernathy, Abernathy's words are not in defense of Garry's number or even a statement, not even of the Panthers. They are what Epstein is really thereafter arguing against without ever addressing with any relevant fact (and I can supply it):

"a calculated design of genocide in this country."

Nor does Julian Bond say otherwise or get misused otherwise in what immediately follows: "The Black Panthers are being decimated by political assassinations arranged by the federal police apparatus".

Now when those who are so opposite the Panthers in every way defend them, it is not from political sympathy, and what all these blacks not quoted in accurate context are really saying is that there is a repressive campaign against the blacks. That Epstein is arguing against, by the simple device of equating a biased and openly dishonest (if you know the facts) police account against a number of dead. I haven't time to go over all of this and select the instances where E uses the formulation of a "nationally orchestrated police campaign", which just hit my eye in this partial quotation of Carl Rowan, but if I have marked some of these, perhaps I will have time. I submit that you can't honestly equate whether or not there is repression against blacks of the Black Panthers and whether or not it is of federal inspiration or protection which even an honest examination of the accuracy of the number of Panthers killed, however they were killed. I see there is a similar quote from Garry in the first column, and a serious factual error on which everything that follows is built that Garry is "spokesman" for the Panthers. That he never was, and to say that any white man is, or can be is not to understand the Panthers at all. I now see another, in the second column, "growing feeling (particularly in the black community) that the Federal Administration has had a hand in the recent wave of raids, arrests and shootouts".

And to evaluate this not only on these terms, but with what he was, as I believe has to be obvious to any critical study of the semantics of which you and the Post were both victim, spoon-fed by the FBI or from it by the pr or legal people?

Do you for one minute believe that Epstein has been a subscriber to all Panther literature, from their very first days, with copies of their local ~~and~~ propoganda, as in Chicago and I think elsewhere, and all their other national stuff? Do you know any one library in which he could have found all those quoted? And is it possible that honest quotation can be restricted to ~~my~~ only that which makes it look and sound even more ridiculous to whites than it ordinarily would? Is it not in fact that case, that he nowhere has any quotation, whether or not, as I believe all are, from police files, of what to him is the other side where it does not, by its use, become ridiculous? Is this honest writing or honest intent? I think if you go through the piece you'll find many quotations of this.

How can there be any honest assessment of even that he pretends to be assessing without any statement of historical police-minority relations and frictions? ~~to~~ eliminate this is to eliminate any context, historical or current. From my own experience of the past, I know that the police traditionally and historically have been really rough on all minorities, not just blacks. I know of cases where men, knowing they were wanted by the police, feared to turn themselves in, voluntarily, without some prominent person whose word would be taken later to attest to their condition on surrender, in well-authenticated fear of what would otherwise befall them once in the hands of the police.

A central question studiously ignored in, could there be any repression after enactment of the civil-rights act by any police anywhere without the tacit understanding that Hoover, or the DJ, or the administration, would tolerate it? That became a crime under this act, a federal crime. Need I tell you of those many things so carefully avoided in this false use of a dubious number as a measure (and even that out of context)? How about the police attacks, and they are nothing else, in New Orleans, where the police killed innocent bystanders, all black? Or than disgraceful business in Philadelphia that will help make ~~XXXXX~~ Rizzo nominee if not mayor of Philadelphia, so shamefully recorded in pictures so widely published? Of so many arrested in so many instances without a shred of reason other than hate, as in an Omaha case where at least a dozen black men were arrested in a bombing case and all released without trial, every one? Short of murder of Panthers, there is no limit to the documentation and that runs the entire gamut of repression, from making black men seem unmanly to killing and often murder.

Now, as you should know, I am not arguing Panther innocence. I am not saying they are not or have not been violent. There is no machine warfare is far worse than Epstein suggests. My own belief is that without the repression, they would never have amounted to anything, and that the repression has made them symbolic to all blacks. When the Whitney lounge, the Ralph Abernathys and the Julian Bonds, to take Epstein's selection alone, defend or feel they are forced to defend those to whom they are so unalterably opposed as they are to the Panthers and everything 'save black' that the Panthers symbolize, I think you can understand either their feeling or get their reading of the prevailing black community attitude toward and understanding of the fact of police repression and its official, federal sanction. In that New Orleans case, when the police returned to the fray, they were not by solid, non-Panther human barriers between them and the Panthers, and the police retreated. The most conservative blacks, were there and elsewhere, turned on. Can they all be wrong? Can they all misunderstand either the fact or the feeling of their brothers? You also know that I would not defend such things as their threat against me. Defense of the Panthers is symbolic, by me as by other blacks. Save that they are the victims of repressions they'd not exist. And what is relevant to this is unreported, even the black cops who would otherwise hate them have been turned on in many cases, and the polarization among the police has grown to the point where there has been open fighting between whites and blacks, as in Pittsburgh last year. What police have been subjecting the entire black community to is not really understood and has not really been either interpreted or really reported by the papers. If the Pittsburgh papers could avoid what happened there, how could the Post, for example,

I know about it only because of friendship with a former (and honored) young reporter who was working trying to fight the use of drugs, working with a black cop in a black area. He also tried to work with the Panthers, and on their terms, and finally agreed with what I first told him, that it was impossible. But the stories of police violence he gave me and I believe are even today incredible. They include such things as indiscriminate shooting up of black buildings and blacks. I told you of the case in Oakland that Epstein found so expedient to ignore, with all the space he gives the Bay area, of the two cops who finally copped a plea on this charge.

So, with there being no doubt of police repression, how can there be no mention of it in all these words, and how can it be interpreted to mean no more than the police murder of a certain number of Panthers only? That is what he does, that is what he says, and that is how he and others (example, Cronkite) interpret it.

Or, no mention of Hoover's open campaigning against them the excesses of his representation of the danger they present to the country. In the context of the civil-rights law, did it require the secret whispering of his agents to tell the local police not to worry about him or the federal authority? Or any more than the FBI's own raids? Let me mention but two. They initiated the pre-dawn tactic in Chicago, and the local reporting of what they did to the Panther office is a perfect duplicate of the brown-shirts. They made a total wreck of it, demolishing files, mimeographs, etc., and even taking the breakfast-fund money. I heard the reporting of Chicago radio stations, the most Establishment oriented, and looking for one black man who later turned out to be an FBI informant by swearing in a half-dozen cities, simultaneously, that they had reason to believe he was in the black Panther office there in order to get a warrant (and apply the overtones to their representations to the courts to get bugging permission).

Also missing, as it should not be in any honest reporting, particularly with this much space, is a single quotation from a single one of the many organizations of black police on both the misrepresentation by Epstein or the broader and serious issue, that of repression. Is not the fact that black police felt they required their own organizations a sufficient index of the feelings of black police about what all police were doing to blacks?

I just notice another thing: where do you think Epstein got all these direct quotes of all those police broadcasts, some three years old? Do you think he listened to those thousands and thousands of hours of tapes, or that he transcribed them, or that there were made available to him? Here and in similar quotes, he employs the currently standard federal semantics, of the endless repetition of the specific that is irrelevant and that is designed to give an aura of fine detail, endless fact, and precise information, as what cars responded to what calls. Over and over he has the number of the police cars. I think you can measure the effect of this upon you, especially if you stop to think of what is not in the piece that could have been used in this same space. It is a propaganda technique with which I have become quite familiar.

Asides after interruption: I am not anti-police, not anti-FBI. I worked with the FBI when you were a baby and recently I gave them, without inventorying it or examination on return, a three-inch-thick file of materials I obtained from inside an extremist group. I work with other police regularly, and recently I turned over to one police department an inside informant they very much wanted, which was not easy to do and required his advance consent. Nor are all white police or all white federal agents happy with either the situation we here discuss or what more interests me in my own work, which is elliptical by design. If you have further interest, I will tell you in person. There are some who trust me.

Is it possible that in all these quotations of what is pretended to be an exhaustive personal investigation, there was not a single serious adverse criticism of any police?

Why those that are made to seem ridiculous or without foundation by the manner in which they were sued, bracketed against what is made to seem dependable? Was there, in this great investigation, no responsible white who had any reasonable criticism of the police anywhere? No established black leader or spokesman? Need I remind you of what the black federal attorney in San Francisco said on getting out? He even ridicules "Goldberg et al. and that by taking them and their aborted "investigation" out of context. The extreme to which this is carried has a parallel in police-Panther quotations, as on p. 69 near the bottom. After crediting what the police had to say and supplied, and at some length he concludes this case, "The only witnesses as to the shooting were those who took part in it, and thus the question of who shot first may be open to doubt - although the medical evidence that Moon was ~~shattered~~ hit by a shotgun blast in the back would seem to suggest that the police were approached from behind." That this could also seem to suggest other things is ~~minor~~ minor. Is there any case in which he has not been willing to take the word of the police, who in each case were "participants"? Even in California and Chicago, and even after the grand-jury investigation in Chicago? (One of the better cases of needless and propagandist use of the specific that is not essential is in the next case and on the next page.)

In all of this attribution of the immediate cause of the quoted statements by black leaders about official campaigns, could he honestly have ignored any reference to "cover" writings, statements, reports and testimony, all focused on and against the Panthers, all calling them the most immediate and dangerous national threat?

Another comment on Epstein: to do what is today done to promote writing, you will not find him doing what others do, what I in particular have done and that is subject himself to hostile questioning. The press does the job for him. He sits back in this ivory tower. My baptism, for example, was the stacked deck of "ong John Hebel, Victor Laski and Mirin O'Dougherty, Buckley's right-hand man, and three more uninhibited or more irresponsible of the radical right I neither want to imagine nor meet. Of course, this could be because he finds it unpleasant, but others also do, and it is the prevailing custom, especially among serious writers, who thus reach a vastly ~~larger~~ audience with their facts and beliefs than can be touched by their printed words. I suggest this is because Epstein can't stand critical examination, and I know he had refused it when it was begged of him. I was there.

attack on the Times, p/ 48, "...that the charge of a "national conspiracy" against the Panthers "has been echoed by more moderate civil-rights leaders". Another case of what I referred to above, he is defending any anti-black repression. I think most of those who could be described as he does in the interruption of the quote said more than "against the Panthers". As a matter of fact, the question to which Mitchell responded on CBS was broader. Here I suggest that with all he has to do besides being Attorney General of the United States, it is not in the normal course of things for any Attorney General to be in such detail informed of magazine writing he thinks is in the research stage.

Same page, it is true that practically no independent checking was done, but I make two comments. It was not "Harry's story" but that of the Panthers, and one of the reasons there seemed to be no need for independent checking is that there is no secret about police brutalities and excesses against minorities, and until he inflated it beyond reason, the precise number was not significant in the face of the incontrovertible fact that there had been police "murders".

On 51 he equates as the getting of the facts straight, only the number as a means assessing "the idea of a deliberate police campaign against the Panthers". The "facts" by which this is measured is not and cannot be only by the number of murders or claimed murders-or even if there were no murders. It is another example of what I believe his real purpose is, defense of the national administration's policy and of

police generally were against whom? Those "liberal" to these, especially the Post and the Times among papers, and Time-Life. No others to quote in identically the context you and the Times are? Is this only coincidence that he so perfectly parallels Agnew et al?

Alex Rackley case: I do not recall, but I don't think he reports that Sams was an FBI informant. This is the guy for whom they swore out 4 simultaneous warrants in a half-dozen different cities from coast to coast that Sams was then in local Black Panther offices. In this case, 52, take his quotes of liberals out of the false context of the number of murders and put it in the proper context and ask yourself if there is anything very wrong in what these concerned leaders said of the general situation, as that bete noir of those Epstein defends, William Sloane Coffin, who said what I agree with, that all of share the blame for the excesses. You will find in my own writing the repetition of the phrase, "the crime of silence". I do not seek to escape my responsibility for my part in it in the past. It is honest to assume it. Why ridicule "liberal" leaders for such soul-bearings (and isn't this paralleled in the Post editorial that I fear in the future and in the immediate will be misused to credit what Epstein has really done, not what the editorial is addressed to). Follow this with the quote from Webster made to seem wrong as used as with what used, that it is difficult if not impossible for black revolutionaries to get a fair trial, today, anywhere. Need I remind you of my own correct forecast in the Rap Brown case? Has it not already been sufficiently confirmed (and much to the credit of the Post), that he was framed? You know I am no more his partisan than the Post, but is that any more the issue with your paper than with me? You also know what I told you I believe the rest of the story, when and if ultimately disclosed, will show, and of the FBI. How remarkable the coincidence between Epstein's defense and this Brown revelation of frameup.

I've taken more time than I should but I don't want the country to burn, and this this kind of thing, if it gets no more attention that it already has, is fuel for the fire. Page 62, is it put straight, with no omissions, that Robertson had surgery in one hospital and seven week later died of an illness from which most recover without great difficulty in another, especially, if one would indulge a seeming paranoia, when how that disease is or can be transmitted is considered (I can't give blood any more because I had it and for a month had improper medical treatment for it, but I recovered, without hospitalization--and I wonder to how many I tried to help I gave it with my blood?)?

Notice how out-of-context the Hutton case is. Without knowing what he had written, I told you he and the others were engaged in trying to cool the black community that was running amok in the after math of the King assassination. Here he gives the date without orientation-- two days after the King assassination. Do you suppose that if they were engaged in enflaming the blacks, they'd have all been in a house for the police to besiege? And in this case, are there none but "police witnesses" or the ridiculed Panther version? My own sources were whites, concerned whites. (p. 66g. "...at least half a dozen policemen opened fire..." No more, when he has all this detail, like car numbers, direct quotes of three-year-old police broadcasts? Are 100 not "at least a half dozen"? Do not the police account for every time they fire a single shot? Especially when there is a death? Even the quote from what must today be regarded as a dubious source after the similar one in Chicago, "that the police had 'acted lawfully', shooting Hutton in the belief he was trying to escape". Later, even this whore can't hold that. With all those cops there, the men having surrendered and being without arms in their hands?

The beginning of the next case hangs on what he will not consider from the other side, police "reports". Do you suppose that the detail and the quotes that follow can be the result of his investigation, so far from where he lives and works?

With the climate in all black communities today, with the means by which police

can and do lean on small businessmen and minorities. I suggest that as used here, "independent witnesses" is a mite of editorializing that in context is but one of the many signs this is not an impartial writing.

On 58, is the quote at the end of this case attributed to the lawyer whose credentials as a liberal and civil-libertarian in honest context? Is he doing more than citing the meaning of the law? Here it is used to make it seem as though he is saying more. I very much doubt it, not with those credentials and him being a lawyer. And does not the law permit such a charge in any shootout, regardless of who starts it?

Throughout all of this, too, whatever any cops says is automatically credited, and in no case is there any indication that any of the cited police reports were ever subjected to any scrutiny or cross-examination. I am not saying that they are wrong or that they have to be wrong, but it is hardly impartial writing to take all of them as literal fact and to dispute and ridicule everything ever said by anyone criticizing or disagreeing, and in almost all cases limiting that to Panthers. Here again, the presentation of an "inquest jury" after Chicago as not subject to question or error is dubious at best. "Justifiable homicide" here may be no more than in San Francisco, where Hutton was without arms and had surrendered when he was killed, or in Chicago, where there is not reasonable doubt of either murder or premeditation. You ought read that grand jury report, and that is the context of the very special problems they confronted, of avoiding indicting any police who would then scream about Federal involvement or inspiration. On Chicago, a digression: there is no doubt of the sufficiency of evidence to warrant indictment, particularly not for perjury. The stupidity of the Panthers gave them their out. They refused to testify. At first this might have been justified on the basis of fear, with framed State charges pending. But not before the end, and it was stupid. This gave authority the "out" it needed. But Panther testimony was not prerequisite for any indictment, on the self-evident perjury or the more serious charges possible. Epstein's handling of Chicago is dishonest and very, very understated while contrived to appear as real criticism. It amounts to defense.

His handling of that begins slyly, saying it is what prompted Garry's belief there was this "pattern", genocide being only one element in that pattern, the others all avoided by Epstein. How about Hoover's own record and pronouncements, the entire FBI and DJ record in the south alone, and in the face of long-standing police brutalities in minority areas? This didn't all start with Hampton. It is subtle, clever propaganda.

One of the understatements that is really dishonest while pretending otherwise, presented and by you taken as serious, dispassionate criticism of the police is at the top of 73. Here he avoids calling these premeditated murders as more than "deaths" and says there may be varying degrees of uncertainties about the others, but of these, they "unquestionably resulted from a deliberately planned raid on a Black Panther headquarters". He uses "deliberately" here with skill. Why use such a word to describe a raid with a warrant, except to connote that the worst that can be said is that a "raid" was "deliberately planned"? What other kind of raid is there, unplanned after a warrant, not deliberate with official orders to do it? Thus he gets around what is unavoidable in any assessment of the independent or even the federal grand-jury record, that murder was the plan. Do you know that the uncontradicted-the admitted evidence is that the police could have raided that pad when they knew nobody was there and, with their warrant, have gotten the weapons? Why do you think they didn't do it when they knew the place was empty if their purpose was to get the weapons and no more? Why that hallmark of the authoritarian states, the just-before-dawn raid? Is the real reason for this time that given 2/3 of the way down, "to achieve the maximum surprise and minimum potential for neighborhood interference", when they knew everyone would be there there and asleep whereas they admitted they could have conducted the raid when they also knew nobody was there? And with the work unquestionable record of what they then did?

If it is true to say, "there are markedly different versions of what happened next", and if it persuades those who, properly and honestly agonize over their own parts and responsibilities in what the people are told and can know, like you, that he is really trying to be balanced in his presentation as he was(?) in his investigation, what he is really doing, as clear analysis of what follows should make clear, is attempt to give even a little credibility to what cannot be credited coming from all local authority, including but not restricted to the police, and leaning on your paper just a bit. I suggest that the Post has been singled out, and that its commendable public agonizing is not as much a surprise as those behind this writing could be expected to expect. The "police version" is hardly reflected here at all, nor is their complete manufacture and public display of entirely faked evidence, at some public cost. And while he begins by saying according to Gorth, by the time he gets along a little it appears to the reader that it is fact that Groth called for a cease fire a "number" of times. With only cops firing? Then he goes into "the Panther version, as it was reported in the Washington Post". Why not as it was reported in the grand-jury report, or by the Department of Justice, or any of the local sources? Note that what was quoted from the Post is in no single word a direct quote and could have been quoted from almost any public source, printed or electronic, in the country, if not the civilized world. I think your people should think of this in particular, for I think they were had, and that Epstein was the official means of having you.

This is followed by a real outie that in context is a defense of the police by hiding what they did. What the "additional ballistics evidence uncovered by the FBI" really says, if you read even the grand-jury report version prepared by EP, is that long after the police and the Panthers went over the premises, the FBI found, and here I'm depending on recollection, about as much more ballistics evidence in the form of recovered bullets, etc., as had been gotten before them. What does that say of the police investigation, and in context, why hide it from the reader, and from those he hoped would agonize about? And, did you know that a rather large amount of what was fired by the police came not from their issue weapons but from what they owned privately, the kinds of weapons ordinarily not wanted, I'd've alone needed, for a knock-on-the door raid, like rifles. ~~What~~ ~~is~~ ~~the~~ ~~point~~ ~~of~~ ~~using~~ ~~them~~ ~~fast~~, ~~inside~~, ~~in~~ ~~the~~ ~~dark~~, ~~in~~ ~~small~~ ~~rooms~~, and you'll see my point. Automatic shotguns if not pistols are the things for such purposes, after what the cops didn't even have, tear gas, if there was any resistance, and there is no credible evidence there was any.

Here again I am depending on recollection, but that alleged deer slug was, I am pretty certain, not recovered. If it was, it was not until long after the police had the weapon and ample opportunity to plant it and the empty casing. To say "consistent with" in ballistics evidence is no more than a trick to avoid admitting there is no proof. Consider how many of each kind of shotgun is made, each rifle with so many lands and grooves. Ballistics is a pretty precise science, and the markings by weapons on projectiles is as unique as fingerprints.

Of all the reporting in that lengthy grand-jury report, the lengthy representation beginning on 79 is hardly representative. It argues against the Panthers and for the cops, which is hardly the thrust or the wording of that report. The accounts of how the victims were is hardly faithful. When you consider that from the police it seems that this battle in which at most only one shot of any kind came from anyone other than the police and lasted 12 minutes, how can it be explained that Hampton was killed in bed, laying down on his back? Is that the way this kind of man dies in a 12-minute battle, even if the first shot awakened him and the first could not have hit him? So, this pillar of integrity in writing says, hiding this, only that "Hampton was not fatally shot while he was 'drugged' or by a policeman standing over him with a silencer, as the Panthers have claimed (and could he have fixed on a more extreme selection?) but by a bullet fired by a police officer in the living room which had passed through two intervening walls at ~~the~~ ^{the} time no Panthers were firing at the police". I emphasize that

... ~~... more than a percent of the shooting, one shot in more than a hundred, is even~~ alleged against the Panthers and I believe that is without substantial proof so you can evaluate this seeming honesty at the end of the quote, which really defends the police police by inferring there was any time during the "battle" that any other than the police were firing. Their own injuries were self-inflicted.

And precise as is the science of ballistics, when he says the fatal missile was recovered, no statement of its origin?

It is here, after this dishonesty, that he begins to conclude, as I earlier emphasized, not in terms of the number attributed to Garry, the ostensible purpose of this long "study", but as "part of a nationally coordinated pattern". So then, in the same paragraph, defines this for the hasty reader to mean only "to kill Black Panthers".

And, careful to not all quotations of what the unnamed officials of the Nixon administration said, he leans on the Times again, quoting what taken by itself is hard not to believe even if one does not believe it to have been proven, that these statements had "at least contributed to a climate of opinion ~~among local police~~ among local police ... (Omission in Epstein) that a virtual open season has been declared on the Panthers which seems historically inaccurate". That "inaccuracy" ought be laid alongside what "cover alone had said. The rest are de trop, but they are also consistent. There is nowhere in this article anything that can be cited in any way, on either side, address this alleged historical "inaccuracy". He simply says it, and I suspect that most, like you, didn't understand what he was saying and being but were impressed by his addressing of numbers of dead only. Even in his dishonest way, he presents no evidence on anything else. Stop and think of this for a moment.

At the bottom there is another cutie which is presented as reading all the evidence and is not truthful, "according to all the evidence that is available...."

Even when, as on the last page, he admits there may have been killings, he cites two cases and gives but two names, where there were three. There were Hutton and Hampton, as he acknowledges, but there was also Clark, and by his definition this means he was wrong by half, or that he omitted 1/3.

In think in my own major interest, inevitably Epstein may be of more interest. His career is too consistent, his writing too closely suits the purposes, in its most limited sense, of the FBI, and I remind you again of Mitchell on CBS, of which I told you and interpreted for you before I saw this article. This is the "liberal" who focused so dishonestly on Warren and other "liberals" and, in context, defended the FBI's work, which is the last thing that can honestly be done in any honest assessment of the Warren Commission's work. I think you know how this can be documented, till long after the last cow is home. Or chicken has roasted. And for this the Eastern liberal intellectual community took him to heart, as a scholar and a rich young man out of this world, and in the name of "defending" Warren? Orwell is more rational!

Particularly do I regret the well-intentioned editorial whose honesty of purpose I do not for a minute doubt. For the Post is now part of what may yet burn the country, of another white assault on everything black, for still another black frustration about which no black is able to do anything, thus contributing to the black feeling of futility. I think we'll find selections for this editorial used for a long time, and I don't think as it was intended to be used. Wait until there is a book enlarging on this!... At some ~~point~~ ^{point} I hope the press will escape their Agnewistic self-caging and when it does evaluate its own shortcomings, which are inevitable and can't be avoided avoided in any rush reporting, it will do so in a way and on a subject that is other than useful for official propaganda, other than fueling a fire in which we may all be consumed. Like they did: for example, on their advance knowledge of the Day of Figs, with all the potential that had. So hastily, Harold Weisberg

New Yorker 2/13/71

A REPORTER AT LARGE

THE PANTHERS AND THE POLICE: A PATTERN OF GENOCIDE?

BETWEEN 4:40 and 4:52 A.M. on December 4, 1969, plainclothes police in Chicago, while executing a search warrant for illegal weapons shot and killed Fred Hampton, the twenty-one-year-old chairman of the Black Panther Party of Illinois, and Mark Clark, a member of the Party in Hampton's apartment. Four days later, it became the same kind of thing in the Los Angeles South West Police Station. There, dressed in black jump suits and black hats, instead of the Black Panther Party headquarters in that city with another search warrant for illegal weapons and in a riotous gun battle, shot and severely wounded three more Panthers, committing an act of violence in San Francisco. Charles R. Garry, chief counsel and spokesman for the Black Panther Party, was a member of the Party. His death was a result of a battle between right kind of and by his hand, declared to the press that Hampton and Clark were "in the twenty-seventh and twenty-eighth Panthers." "We're the police," and that the deaths and the deaths of all the other people in the Panther Party in various parts of the government.

Garry's statement that six or seven members of the organization had been killed by the police was widely reported. On December 7 and December 10, 1969, the New York Times reported an established fact, without giving any source for the figure or qualifying it in any way, that twenty-eight Panthers had been killed by police since January, 1968. (These studies were disseminated throughout the country in over three hundred newspapers and news agencies that subscribe to the Times who served.) On December 9, 1969, the Washington Post stated that "A total of 28 Panthers have died in clashes with police since January 1, 1968." (A later article, the Post declared, "Between a dozen and 30 Panthers have been killed in these confrontations." (About two hundred newspapers subscribe to the Post wire service.)

On the basis of what had been reported about the police killings and previous news, civil rights leaders expressed an understandable concern. Rev. James Bevel, of the Congress for Racial Equality, called for an immediate investigation of "the death of 28 Black Panther members killed in

clashes with the police since January, 1968." Ralph Abernathy, who succeeded Martin Luther King, Jr. as the chairman of the Southern Christian Leadership Conference, attributed the death of Panther leaders to "the calculated design of genocide in this country." Julian Bond, a member of the Georgia state legislature, said, "The Black Panthers are being eliminated by political assassination arranged by the federal police apparatus." And Whitney Young, executive director of the National Urban League, urgently requested the Attorney General to convene federal grand juries in those jurisdictions where roughly 30 Panthers have been killed by less than fifty men in the last year.

Garry's theory about the national scheme to destroy the Black Panthers was also taken up by the press. Referring to a "growing history of terrorism in the Black community" that the "Federal Administration has had a hand in the recent wave of raids, arrests and shootings," an article in the Times by John Ketcher concluded that statements made by officials of the Nixon Administration "appear to have at least contributed to a climate of opinion among local police... that a virtual open season has been declared on the Panthers." *Time* reported, on December 12, 1969, that "a series of gun battles between Panthers and police throughout the nation" amounted to a "literal undeclared war," and concluded, "Whether or not there is a concerted police campaign, the ranks of Panther leadership have been decimated in the past two years." In the very next issue, *Time*, repeating Garry's claim that "28 Panthers have died in police gunfire," asked, "Specifically, are the raids against Panther offices part of a

national design to destroy the Panther leadership?" The answer was more or less left open. That same week, *Newsweek* began a news report entitled "Too Late for the Panthers?" with the same question: "Is there some sort of government conspiracy about to exterminate the Black Panthers?" The article then proceeded to portray a "guerrilla war between the gun-toting Panthers and the police," in which the Panther "hierarchy insisted the country has been all but decimated over the past year," and concluded that "there is no doubt that the police around the nation have made the Panthers a prime target in the past two years..." A few weeks later, *Newsweek* reported that "the cop on the beat has been joined by Attorney General John Mitchell's Justice Department, which believe the Panthers to be a menace to national security and has accordingly escalated the drive against them..." a drive that "has taken a fearful toll of the Panthers." The Washington Post, noting in an editorial that the "extrajudicial" nature of the "urban guerrilla warfare" between Panthers and police, concluded that "recent events" had given "added currency" to the Panther charge that "there is a national campaign under way to eradicate them by any means, legal or extra-legal." Picking up the theme in his syndicated column, Carl T. Rowan observed, "We have seen this nationally orchestrated police campaign to turn the guns on the Panthers and wipe them out," and referred to an "obvious conspiracy of police actions across the country that has produced the alleged killings of 28 Black Panthers." *The Nation*, in an editorial titled "Marked for Extinction," asserted, "It is becoming increasingly apparent that a campaign of repression and assassination is being carried out against the Black Panthers." Even a paper as cautious as the *Christian Science Monitor*, after a telephone interview with Garry, cited the Panther charge of "police murder" and "genocide" and expressed "a growing suspicion that something more than isolated local police action was involved."

CONFUSION about the alleged murders began to set in early, and on December 21, 1969, the *Times* reported that Garry had put the number of Panthers killed by the police at twelve, although it later returned to the figure of twenty-eight. While an Asso-



erated Press dispatch in the San Francisco *Examiner* on December 9th reported that twenty-seven Panthers had been killed by police in "Chicago, Denver, San Francisco, Detroit, and Indianapolis," the United Press International wire service, on December 12th, went out to its clients a list, provided by the Black Panther Party, of twenty Panthers killed in "cold blood" by police in Los Angeles, Oakland, Seattle,

San Diego, New Haven, and Chicago. (In the list itself, however, only sixteen deaths could actually be attributed to the police.) *Life*, in a single issue—that of February 6, 1970—presented three figures: Clbridge Clavey, the minister of information of the Black Panther Party, was quoted as saying that police "ambush" had led to "28 murders" of Panthers, but at another point the magazine declared, "So far, in the running

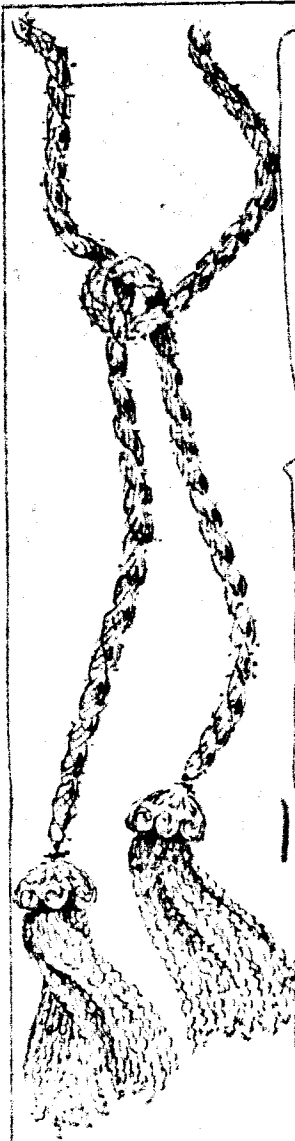
guerrilla war of rooftop sniping, midnight ambush and mass shoot-outs that the Panthers and police have been waging in a number of cities... at least 19 Panthers are dead," adding, in parentheses, that "it is uncertain that more than a dozen have died of police bullets." While articles in the *New Republic*, *Ramparts*, and the *New Statesman* have, at various times, put the figure at twenty, an article in *Newsday* by Patrick Owens, who made a conscientious effort to check out Garry's claim, asserted that no more than ten Panthers had been killed by police. The executive director of the American Civil Liberties Union in Illinois declared, according to the *Washington Post*, that twenty-eight Panthers had died in clashes with police since January 1, 1968, while the Los Angeles branch of the same organization said that it was possible to document twelve cases in which Panthers had been killed in such encounters. In a column in the *Post* a few days earlier, Nigelat von Hoffman had written, "The Panthers alone claim that 28 of their members have been murdered in the last couple of years, and there is a strong anti-racist reason to believe them."

Even one victim of deliberate police murder would be too many, but if twenty-eight Panthers had been murdered by the police in two years, as Garry claimed and as his police hearings registered, it might indeed represent a pattern of systematic destruction. The implications would be so dreadful that one would expect the figures to be checked out with the utmost scruple, since the number of Panthers killed would seem to be an ascertainable fact, how can



JOSEPH FARRIS

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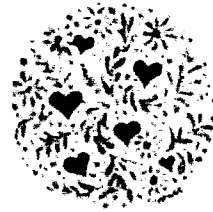
such widely differing figures be accounted for?

When A. M. Rosenthal, the managing editor of the *Times*, was asked about the discrepancies in his paper, he explained that the December 7th report, which stated, "Twenty-eight Black Panthers have been killed in run-ins with the police since January 1, 1968," was taken from a December 5th story by the same reporter, which said, "According to Charles Garry... [Hampton and Clark] were the 27th and 28th Black Panthers killed in clashes with the police since January of 1968," and which was itself based on a telephone conversation with Garry. In the December 7th story, the qualifying phrase "according to Charles Garry" had been deleted, Rosenthal said, because "the reporter probably felt the source was unimportant in the second story"—although Rosenthal, in discussing the matter, said that he personally felt that the reporter should not have turned an assertion by an interested party into a fact. The figure of twenty-eight had subsequently been reported as fact because the reporter "inadvertently referred to the first figure," and *the* had happened because "no flag was placed on the error." (Whitney Young's assertion that "nearly thirty Panthers have been murdered by law-enforcement officials" was found on the *Times* according to his research assistant, and the *Times* was given the response in a Sunday summary that the charge of a "national conspiracy" against the Panthers "has been accused by more moderate civil-rights leaders.")

Ben Bazlikian, the national editor of the *Washington Post*, also named Garry as the source for his newspaper's assertion that twenty-eight Panthers had been killed by police—though the only "specific documentation" on the subject was the U.P.I. item of December 12th. The U.P.I. notation, which went out to more than four thousand subscribing domestic newspapers and broadcasting stations, came from the news agency's San Francisco bureau, which, according to its manager, H. Jefferson Grogby, obtained the list of "victims of cold-blooded murder by the police" from Panther sources. "There was no further dispatch modifying the December 12th story," Grogby has noted. Garry's list apparently provided publications such

as the *New Republic*, *Ramparts*, and the *New Statesman* with the "fact" that twenty Panthers had been killed by police. (The figure was published without attribution), and *Ramparts*, in turn, furnished an organization called the Committee to Defend the Panthers—whose letterhead included the names of Norman Mailer, I. F. Stone, Ralph Abernathy, Pete Seeger, Ossie Davis, and Gloria Steinem—with what the committee called the "gain statistic" of twenty Panthers dead. Members of another committee concerned with the treatment that Black Panthers were receiving at the hands of the police—this one set up by former Supreme Court Justice Arthur Goldberg and Roy Wilkins, of the N.A.A.C.P.—were widely quoted as saying that "twenty-eight" and "nearly thirty" Panthers had been "murdered" by police, although Norman C. Amaker, the staff director of the committee, conceded that the list on which these statements were based "was compiled at the behest of their national attorney, Charles Garry."

And so it went. Although Garry was certainly an interested party in the controversy over what came to be called the war between the Panthers and the police, it is clear that his assertions were widely accepted in their basic value, or even when modifications were made in the list of casualties. It was Garry's story that was being modified, and practically all the random checking was done. How, then, did Garry arrive at his figures? In September, 1970, Garry explained to me that he chose the number



twenty-eight because he was given a list of names after the shooting of Hampton and Clark because the "list had to be made up," he added that he believed "the actual number of Panthers murdered by the police was many times that figure." When pressed for the names, however, Garry said that he had "no list" and that he "only knew the names of a few Panthers." The list of "twenty murders," which was set to me from Garry's office, being some way saying that "the facts are not necessarily complete," actually comprised only thirteen Panther deaths, and one of the thirteen murdered was Sidney Miller, of Seattle, whose attribution by Garry and to me by him in the *Washington Post* was found by Norman Mailer was going to read "strong." In the company's records, the

*He confesses as "fact" a claimed body of evidence with
the question of a uninitiated campaign to identify*

statement of the Seattle police is that "the deceased and an unknown person were robbing the Seven-Eleven store at 8856 35th Ave. S.W., and in the progress of the robbery the deceased was shot with a .38-calibre snub-nosed Smith & Wesson by the store owner, Donald F. Lamove." Lamove does not dispute the statement that he fired the fatal shot.

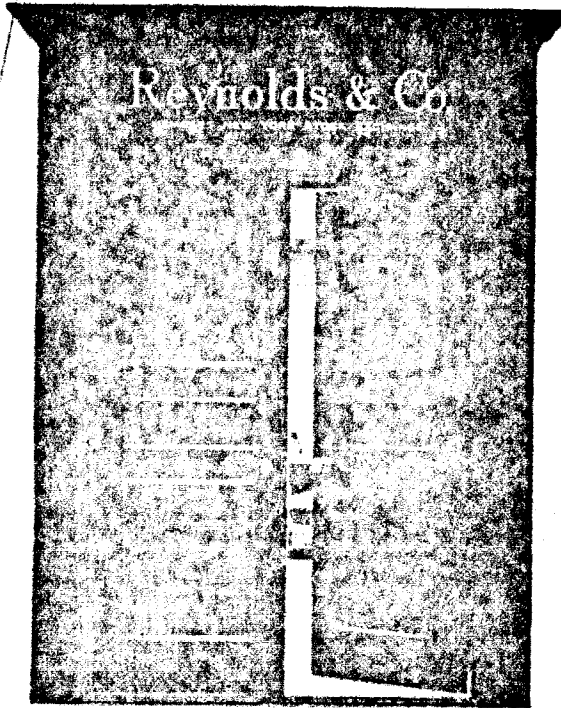
That leaves a host of "documental" cases involving Black Panthers who carry charges and are involved in police in various ways. The general opinion of the Black Panthers is that the way black people in general are treated by the police in our society has become a subject of increasing concern to many citizens, black and white, and, for a number of reasons—including the deaths of Hampton and Clark in Chicago—the idea of a deliberate police campaign against the Panthers may not seem far-fetched. But if there is to be an abatement of the fear and near-hysteria that seem to have developed around the question of the Panthers and the police, surely we must begin by getting the facts straight. For this reason, Garry's list of eighteen Panthers allegedly murdered by the police may be worth examining in some detail.

THE CASE OF ALEX RACKLEY

On May 21, 1969, John Muzka, a twenty-three-year-old factory worker, stopped his motorcycle near a bridge on Route 147 outside of Middletown, Connecticut, and while walking along the edge of a stream looking for trout saw a "set of legs" and "body" partly submerged. State police were called to the scene by Muzka, and they recovered from the stream the body of a Negro male whose wrists were tied with gauze and whose neck was encircled by a noose fashioned from a wire coat hanger. An autopsy conducted immediately afterward indicated that the man had been severely burned on wide areas of the chest, arms, wrists, buttocks, thighs, and right shoulder and had also been beaten around the face, the groin, and the lumbar region with a hard object before he was shot in the head and chest. The victim, who was subsequently identified by his fingerprints as Alex Rackley, had died, a pathologist concluded, within the preceding twelve to twenty-four hours.

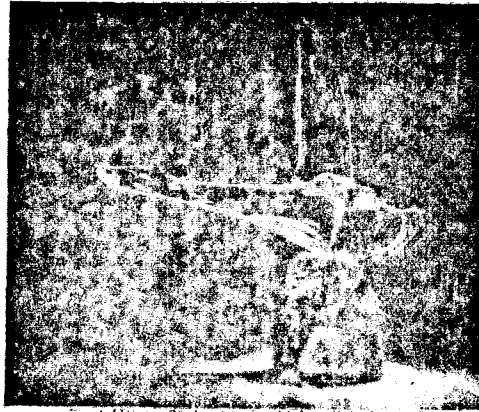
Just after midnight on May 22nd, New Haven police acted on a tip supplied by an informant who identified a Polaroid photograph of the corpse as a man who had been tortured with scalding water in an apartment that served

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a Panther headquarters in New Haven. Around 12:30 a.m., they raided the apartment and arrested Warren Kimbro, thirty-five, one of the leaders of the New Haven chapter of the Black Panther Party, and five women members. Eventually, eight other Black Panthers, including Bobby Seale, the national chairman of the Party, were arrested, and all of those arrested, except two who were remanded to a juvenile court, were charged with complicity, in varying degrees, in the kidnapping or torture or murder of Alex Rackley, a twenty-four-year-old member of the New York chapter of the Black Panther Party.

Charles Garry immediately charged that "Rackley was killed by the police or by agents of some armed agency of the government." Holding that the murder victim was in "good standing" in the Party, he further declared, as quoted in *Newsweek*, "We have every reason to believe, and we intend to prove, when the time comes, that Rackley was murdered by police agents."

Even without proof, Garry's version of the events gained wide currency. The U.P.'s listing of Panthers alleged by a Party spokesman to have been killed by the police cites "Alex Rackley," simply as "tortured and killed" by the police in New Haven, Conn., in May, 1969. At Yale, where a national May Day rally was held in the spring of 1970 to support the Panthers charged in the case, William Sloane Coffin, the Yale chaplain, described the trial of the accused Panthers as "Panther repression" and said, "All of us conspired to bring on this tragedy—law-enforcement agencies, by their illegal acts against the Panthers, and the rest of us by our shameful silence in front of these acts." At the same time, the president of Yale, Kingman Brewster, Jr., told striking students—who were demanding, among other things, the release of the Black Panthers awaiting trial for Rackley's murder—that he was "skeptical of the ability of black revolutionaries to achieve a fair trial anywhere in the United States," adding, "In large measure, the atmosphere has been created by police actions and prosecutions against the Panthers in many parts of the country."

At this point, the three Black Panther officers who were specifically accused of taking Rackley to the stream near Middlefield, Connecticut, where his body was found had long since admitted their participation in the killing. George Sams, Jr., a twenty-three-year-old Panther who had once held the

forget the alamo.




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rank of field marshal in the national Black Panther Party, pleaded guilty to second-degree murder, which in Connecticut carries with it a mandatory sentence of life imprisonment, and testified that in the early morning of May 21, 1967, he and Warren Kimbro and Lonnie McLucas, using a car that McLucas had borrowed, took Rackley, bound and gagged, from Black Panther headquarters in New Haven to a deserted spot off Route 147; there Kimbro, under Sams' direction, shot Rackley in the head with a .45-calibre pistol, and a few minutes later McLucas fired another shot into the body. Sams testified that he was acting under orders from the "national" Party personally given to him by Bobby Seale. Kimbro pleaded guilty to second-degree murder in January, 1973, and testified in open court that he fired the first shot into the back of Rackley's head after Sams said, "Now." Kimbro, however, refused to implicate Seale in the crime, testifying that he himself was asleep at the time Sams was said to have visited the headquarters. McLucas, twenty-three, a captain in the Black Panther Party and a founder of the Bridgeport chapter, gave the same general account of the killing to New Haven police detectives and FBI agents two days after he was captured in Salt Lake City in June, 1967. During his own trial, at which he pleaded not guilty to the charge of conspiracy, McLucas testified that he drove Rackley, bound and gagged, along with Sams and Kimbro, from New Haven to Middletown after Kimbro had shot Rackley. McLucas said, Sams ordered him, McLucas, "to make sure he was dead." McLucas said he then fired a second bullet into Rackley. McLucas, like Kimbro, has not implicated Seale, although he acknowledged under cross-examination that at the time of the killing he believed he was acting under orders from "national headquarters." (McLucas was found guilty of conspiracy to commit murder and sentenced to twelve to fifteen years in prison.)

The testimony of Sams, Kimbro, and McLucas was consistent with physical evidence that has not been contested in various legal proceedings having to do with the case—a .45-calibre pistol (the police found in Panther headquarters on the night of the raid ballistically matched the bullet and the bullet casing found at the scene of the

murder, and fingerprints found on the car that McLucas borrowed that night matched those of Sams and Rackley) and also with the statements of other Panthers who were present in the apartment on the night of the killing. For example, Loretta Lockett, who had stood guard over Rackley while he was tied to a bed in the Panther headquarters for two days, described, in testimony during trial hearings, having helped to dress Rackley on the night of the murder while Sams and Kimbro stood over him with a pistol and rifle.

(Because, one Panther said, "he might go crazy") then, she said, "Lonnie [McLucas], Warren Kimbro, and George Sams" went "out the door" with Rackley.

It may be that McLucas, Kimbro, and Sams were acting under orders from Seale or the national Black Panther Party, or it may be, as much of the testimony in the legal proceedings to date indicates, that some widely operational suspicions about Rackley turned an interrogation session into a torture and

murder. But the fact remains that Rackley was shot not by the police but by two officers of the Black Panther Party, and since both have refused to implicate Seale, the suggestion that they might be "policy-makers" seems likely at best. Perhaps Seale's trial for conspiracy now going on in New Haven will shed further light on the motive for the killing, but even a first stage of the legal proceedings it is difficult to take seriously Garry's inclusion of Rackley in his list of Panthers killed by the police.

THE CASE OF NATHANIEL CLARK

Nathaniel Clark, Jr., a thirteen-year-old Black Panther, is listed by Garry as having been "killed by a police agent" and by the U.P.L. quoting the Black Panther Party, as having been "killed by the police in Los Angeles." He was killed by her wife, who told investigating officers that she had shot her husband in self-defense with his revolver after he had, in her words, "shot up with heron and beat me up." Because of her age, seventeen at the time, the case was remanded to a juvenile court, which adjudged the death to have resulted from involuntary manslaughter.

THE CASE OF ARTHUR MORRIS

On March 13, 1968, while out on bail on a charge of conspiracy to con-



the murder, Arthur Glenn Morris (also known as Arthur Coltrane) was killed by a blast from a 12-gauge shotgun in a friend's back yard. According to the friend's wife, Mrs. Henry Daily, Morris and a companion, Donald Campbell, were in the back yard talking with her husband, who had taken his 12-gauge shotgun out there with him. She heard the men arguing, then heard a volley of shots. Rushing out, she found all three men fatally shot. Apparently, there had been a shootout, in which either Morris or Campbell had shot Daily with a .12-calibre automatic (the gun found at the scene) and he had shot both men with his shotgun. None survived to tell their stories.

THE CASES OF JOHN HUGGINS, ALFRED CARTER, SYLVESTER BELL, AND JOHN SAVAGE

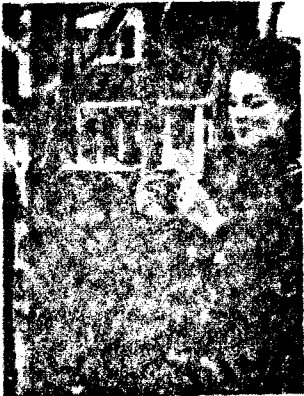
Of the fifteen remaining "homicides" on Gary's list, four Panthers—John Jerome Huggins, Jr., Alfreto (Bunchy) Carter, Sylvester Bell, and John Savage—were actually shot to death, according to both the Black Panther Party and California authorities, by members of U.S. a rival black-militant organization, headed by Ron Karenga, with which the Panthers had once temporarily allied themselves in a lawsuit against the Los Angeles Police Department.

The dispute began at the University of California at Los Angeles in the fall of 1968, when Ron Karenga attempted to select the director of the Black Studies Program through the Community Advisory Board, of which he was a director. A number of Black Panthers, including Huggins and Carter, who were at that time enrolled in the black section of the "high-potential" program, vigorously opposed Karenga's attempt, despite the warning of a Karenga spokesman, who said, "This is not a decision that anybody is going to take out of our hands. . . . Anybody that is involved in this is going to have to come back to the community after dark." Leaders of U.S. said that students who accepted Karenga's hand-picked director would be given "protection" against Panther reprisals. On January 17, 1969, some hundred and fifty members of the U.C.L.A. Black Students Union met in Campbell Hall on the U.C.L.A. campus to resolve the dispute over the directorship. Five members of the line guard of U.S.—known as Simbas, after the word for "lion"

in Swahili—were present. Shortly after noon, in the student cafeteria, Huggins and Carter cornered a young Simba named Harold Jones, who had been accused of manhandling a female Panther earlier in the day, and began pummeling him. Suddenly another Simba, dressed in a dashiki, stepped up behind Huggins and fatally shot him in the back. A gun battle ensued, in which Carter was also shot to death before the Simbas fled.

Black Panthers who had been present at the meeting were reluctant to supply information at first, but they cooperated fully with the police and the prosecutor in identifying the assailants and finding witnesses after the prosecutor spoke to Gary, who, the prosecutor later reported, "instructed the local Panthers to help us in our investigation." Two of the Simbas, George Phillip Simer and Larry Joseph Simer, were brought to trial on charges of conspiracy to commit murder, were convicted, largely on the basis of the testimony of five Black Panther witnesses, and sentenced to life imprisonment. A third Simba, Donald Hawkins, was also convicted of conspiracy to commit murder, and was sentenced to an indefinite term in the detention program of the California Youth Authority. Two other Simbas indicted in connection with the same killings—Harold Jones and Claude Habers, who are alleged to have done the sexual shooting—are still in progress. (Karenga, who was on a speaking tour of Eastern cities at the time of these shootings, was subsequently arrested and indicted in Los Angeles on further charges in another case.)

In the aftermath of the gun battle in Campbell Hall, two more Black Panthers were killed by members of the U.S. organization, according to both the Black Panther Party and the police. "At about 4:30 p.m. on May 21st in San Diego, California, Lt. John Savage, Black Panther Party, was murdered by a well-known Ku Kluxing member of the U.S. organization led by Ron (EVERT) Karenga," the Black Panther newspaper reported, and it went on, "Mr. Karenga, better known as pork chop, is leading his culturalized pork chops in a futile attempt to destroy the Black Panther Party." The U.S. member who shot Savage was eventually arraigned and pleaded guilty to a charge of manslaughter. A few weeks after Savage's death, another Panther, Sylvester Bell, who was sell-



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[a] police raid"—a statement suggesting that he was shot during a planned police action against a Panther office.

The picture of what happened that can be pieced together from police records, independent witnesses, and even the Black Panther newspaper is very different. At 2:01 A.M. on July 16, 1969, the Chicago police received a "citizen's complaint" that a fruit stand had been burglarized at 610 California Street, in the West Side ghetto. A radio dispatcher routinely recorded this information on a computer card used for statistical analysis of complaints and crime patterns, and dispatched the patrol car that his electronic map indicated was nearest to the scene—Car No. 1124, manned by Officers Kenneth Cortes and Daniel Sampala. According to Sampala's subsequent report, the officers arrived at the fruit stand at about 2:05 A.M. and were met by Mr. and Mrs. Burman Jenkins, friends of its owner, who pointed out a hole in the door of the stand. The two policemen, led by Mr. and Mrs. Jenkins, then followed a trail of apples and oranges to a passageway, where they found two empty fruit baskets. While the police were flashing a searchlight around, the group encountered Larry Roberson, twenty-one, and Grady Moore, twenty-eight, who identified themselves as "community leaders," and were told by Sampala to "mind their own business." The group, followed by Roberson and Moore, then returned to the fruit stand, where they were met by the Reverend Edmund Jones, who owned the fruit stand, and another of his friends, the Reverend Clarence Edward Stowers, who was the pastor at the nearby Mt. Hill Missionary Baptist Church. A few minutes later, the two policemen and Jenkins were shot. In a statement Stowers made later, he described what happened this way:

Reverend Jones, Mr. Jenkins, myself, and the two officers were standing there talking about boarding up the door. Two men walked up and started looking in the hole in the door and asking what had happened. The officers told them that everything was taken care of and they should leave. One of the men had his hand in his pocket, and the officer aimed his light on the man. The man asked him why was he shining the light on him and don't be f---ing that. Then the shooting started. The officers had their guns in their holsters so it must have been the men that were shooting. One of the officers fell down and the other one got hit in the shoulder. I remember it was only one of the two men that was shooting. He turned and ran up the alley. I don't know where the other one went to. Well, anyway the policeman that had fallen to the ground

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started chasing the man up the alley and lots of shots were fired.

Jones gave a similar account of the incident:

The policeman and Mr. Jenkins told Reverend Stowers and me that they hadn't found anything and that I could quit a board or something across the door. While we were talking two guys came across the playlot from Flournoy Street and started asking a lot of questions. The tall guy [Moore] went and looked in the door and the policeman told them that they had everything under control and for them to go about their business. The tall guy started mouthing at the policeman and then the other guy [Roberson] came up and hollered, "What's happening?" And he started shooting. One of the policemen [Samplel] fell to the ground right at my feet and the two guys started running. The policeman that had fallen by me got up and started chasing the man that was shooting at us. They ran down the alley and I heard more shots.

Mr. and Mrs. Jenkins agreed with this account, Mr. Jenkins adding:

One man shouted something and started shooting... after the first shot one officer fell to his knees, the second shot hit officer Gordes, and the third shot hit me.

Roberson, pursued through the alley, was shot in the ankle, in the thigh, and in the abdomen by Samplel before he surrendered. According to the Chicago crime laboratory, the bullets that struck Gordes hit the left shoulder and collarbone, Samplel (in the head), and Jenkins (in the right side) all came from a .38-caliber man-tooled Smith & Wesson rifle from Roberson. The returned out to be a stolen weapon. Roberson was arrested on charges of attempted murder and was admitted to the Cornell Memorial Hospital, where he underwent surgery. Six weeks later, he contracted pneumonia and died in the Cook County Hospital.

A somewhat different version of the incident was provided by the Black Panther newspaper, which reported, in August:

On July 17, 1967, two brothers in the Illinois chapter of the Black Panther Party were returning to their community after finishing a day of revolutionary work for the people's Party. On this particular night they noticed the pigs had nine brothers on the wall next to a storefront, harassing them. Five of the brothers were in ages ranging from 50-62 years old. The pigs claimed they were answering a burglary in process call. Can you imagine men 50-62 years old burglarizing a store in their own community? Well, after investigating the matter and coming to the conclusion that this was just another racist act of harassment committed by the pigs on the people, Larry Roberson and Grady Moore walked

over to the scene where the majority of the people had gone and asked an officer what was going on. The pig then demagogically replied "This is none of your damn business." Be. Larry then stated "I am a member of this community and even by your laws I have the right to know what's going on." The crazy pig then said "Smart bastard, you're under arrest for disorderly conduct." The people of the community immediately got between Larry and the pigs, and the pig drew his gun and ordered them aside while his pig partner radioed for help. Larry then (with the instructions from the people) was told to go home because the people hadn't seen him do anything, so he and Grady started away and the pig suddenly shot Larry in the leg. Grady grabbed Larry to help him to try to escape with his life. The whole area was sealed off with crazy, drunk, inhuman pigs. Larry was then carried to an alley, unarmed and wounded. As the pig approached him, he snked "I'll teach you and your partner how to interfere with pig matters." He then aimed at Larry's head. It was true that Larry was unarmed, but being a Panther and a true revolutionary, he had educated the four powers—the people. As the pig was ready to squeeze the trigger, the power of the people was demonstrated. A voice quoted Huey: "You racist pigs must withdraw immediately from the black community and cease this wanton murder and brutality of black people or face the wrath of the armed people." Then, the shots rang, the people rang out from everywhere for about 30 seconds; then it ceased. One pig shot in the head and one pig shot in the shoulder. Larry and Grady then started to make it when more pigs arrived. Larry and Grady turned and raised their hands. The pig that was shot in the shoulder raised his gun and shot Brother Larry in the stomach, thigh and leg trying to kill him. Grady evidently escaped death when the people of the community came out to witness the action. Larry Roberson is proven to be a true revolutionary not by words but by deeds. He has shown his love for the people. He put his life on the line and to return the people released some revolutionary power.

The suspicion that Roberson was wounded and that the "people" did the shooting was contradicted by a subsequent report in the Black Panther newspaper, which said that when Roberson found himself again after being shot, Larry managed to get his gun out and wound two of the attacking animals. But the Panther version and the police version actually agree on a number of important aspects: the suspect was apparently the Panther who approached the police rather than the other way around, and two police officers were shot during Roberson's attack, which was seriously wounded in the abdomen.

THE CASE OF BOBBY HUTTON

According to *Life*, Bobby Hutton, the seventeen-year-old minister of finance of the Black Panther Party, was

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killed and Eldridge Cleaver was wounded in an "Oakland police ambush" in 1968. The Times quoted Givens as attributing Hatton's death to a "police ambush."

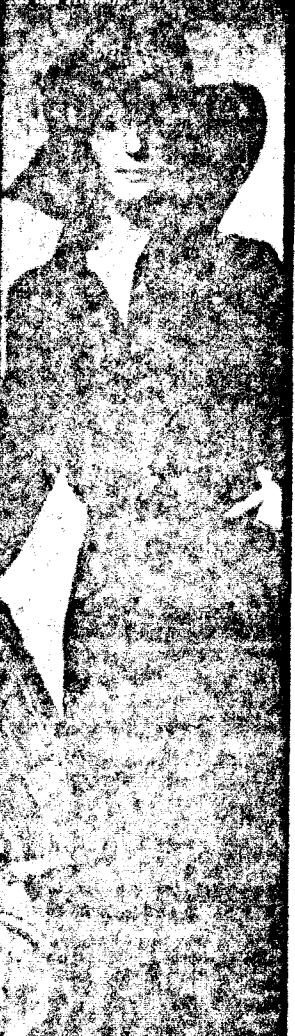
Shortly after 9 p.m. on April 6, 1968, Officers Nolan R. Darnell and Richard R. Jensen, while on routine patrol in the area of Oakland, California, that is predominantly inhabited by blacks, stopped their patrol car on Union Street next to a parked 1954 Ford when they caught a glimpse of a man crouching at the curb side of the car. In their report, they said that they suspected he might be trying to steal it. Moments later, while investigating the situation, both officers were hit by bullets fired from behind them. Afterward, forty-nine bullet holes were found in the police car, the rear window had "two large areas shot inward," and the side windows and the open door, next to which Darnell was standing at the time, had also been hit numerous times. According to medical reports prepared by Dr. William Mills, Jr., of Sandoz Merritt Hospital, Darnell was wounded in the "upper right back," Jensen, apparently hit by a blast from a 12-gauge shotgun, suffered multiple wounds in the "lower right back," in the "right arm," and in the "right ankle and foot." According to Darnell, a number of men armed with shotguns and rifles ran to or ran marked around and about the 1954 Ford, some of them through an alley into the block across the street, while Darnell urgently called for help on the police radio.

An account of the incident in the Black Panther in a paper said, "Several Panthers in cars in West Oakland on Saturday night, April 6th, were approached by two cops and menaced with guns. When the Panthers tried to defend themselves, shouting 'Nigger' and the Panthers ran into a nearby house and three cops were wounded slightly." Four Black Panthers gave statements to the police in which they said that they had been patrolling the neighborhood with guns in three cars. "The point Negroes against police brutality," and had just parked their cars on Union Street in order to stow their weapons in a nearby house when the patrol car pulled up, but the four disclosed any knowledge of how the shooting began. Cleaver later said in an interview that was published in the San Francisco Chronicle: "I don't know how those cops got shot. There were so many bullets whizzing around maybe they shot themselves."

In any event, after the two police-

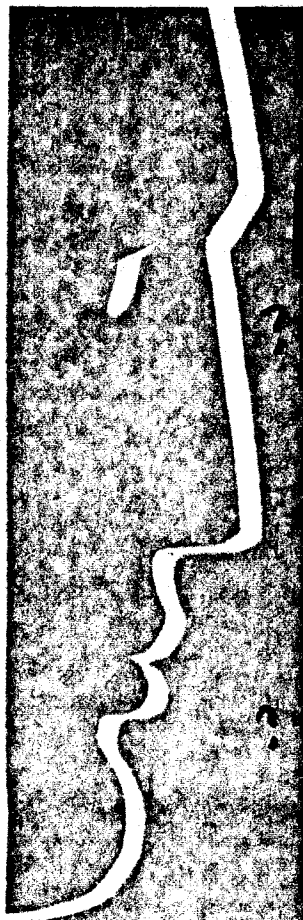
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men were shot, police from other parts of West Oakland and even from nearby Emeryville, responding to the radio alarm, surrounded a building on Twenty-eighth Street that the Panthers had entered, and there ensued a ninety-minute gun battle, in which a third policeman was wounded. Finally, after an exploding tear-gas canister had set fire to the building, two Panthers emerged: Cleaver, naked, and wounded by a tear-gas shell, and Hutton, fully clothed. According to police witnesses, Hutton suddenly bolted down Twenty-eighth Street, whereupon at least half a dozen policemen opened fire, fatally wounding him. Cleaver, in the *Chronicle* interview, gave a different version of the shooting of Hutton. He advised that Hutton had fired some shots at the police, but said that he himself "took Bobby's gun and threw it out"—out the window, that is—and that they both came out unarmed. "The cops told us to get up and start running for the squad car," Cleaver continued. "Bobby started running—he ran about ten yards—and they started shooting him." The grand jury, after hearing thirty-five witnesses, concluded that the police had "acted lawfully," shooting Hutton in the belief he was trying to escape.

Eight other Panthers, including Cleaver, who were all godly involved in the shooting of the policemen were arrested that night and then were released on bail. Two of the eight were subsequently convicted of assault with deadly weapons; one was released to a juvenile court; one was freed and convicted for an unrelated armed robbery and sent to state prison; one, Cleaver, jumped bail and fled the country; two others, with the juveniles, are now in trial in Oakland, and other cases are still pending.

THE CASES OF STEVEN BARTON, OMELIA, ROBERT LAWRENCE, AND THOMAS LEWIS

At about 4:45 p.m. on August 5, 1968, in a predominantly Negro section of Los Angeles, three Black Panthers were fatally shot and two policemen were wounded, one critically, in a showdown at Ham's Moon Service Station.

Fifteen minutes earlier, Police Officers Rudy Limas and Norman J. Roberge were on a routine patrol when, according to their reports, they saw a black 1955 Ford with four men in it

start up a private driveway, stop suddenly, then back down the driveway. Finding the movements suspicious, the policemen began following the Ford, whose occupants, Limas noted, kept "looking back." Limas then asked the police communications center for the patrol car's radio and gave the Ford's license number, to ascertain whether it had been reported stolen. Before a reply could be received, the Ford pulled into Ham's service station and stopped by a gas pump. The police car stopped a few feet behind it, and Roberge, according to his statement, asked



the driver of the Ford for his license. The driver, Roberge reported, "replied that he didn't have any driver's license," whereupon Roberge "instructed the driver to go back to the police car and place his hands on top of the police car." Roberge then ordered the three other suspects out of the Ford and over to the police car. "At this time," Roberge stated, "the suspects were standing in a row facing the police vehicle"—between the two police officers.

Limas gave the following description of what happened next: "Suddenly the guy in front of me, who I think was wearing a yellow shirt and dark pants, spun around and pointed a gun at me, and the others moved at the same time. The guy in the yellow shirt said, 'O.K., m---f---' and then he shot me." According to medical reports and testimony, Limas was shot in the abdomen and the thigh, with a bullet lodging in the hip. Roberge stated, "As I walked toward the police vehicle, I saw my partner, Officer Limas, standing to the left rear of the police vehicle on the other side of the group, facing me. Suddenly I heard some shots and I was knocked to the ground." According to the medical evidence, Roberge was shot in both legs. In the gun battle that followed, Limas fired shot "the guy in the yellow shirt" and a second suspect, who was "trying to load a .38-caliber," and Roberge "aimed" his gun at a third suspect. The fourth man who had been in the car fled on foot.

There were two independent witnesses to the shooting: the service-station attendants, Shon Katyana and Eugene Oca. Katyana, who explained that he was "standing by the pumps . . . a few feet east of the Ford," also stated in a deposition:

A black (4-door) Ford pulled into the station, pursued by a police car. . . . Three

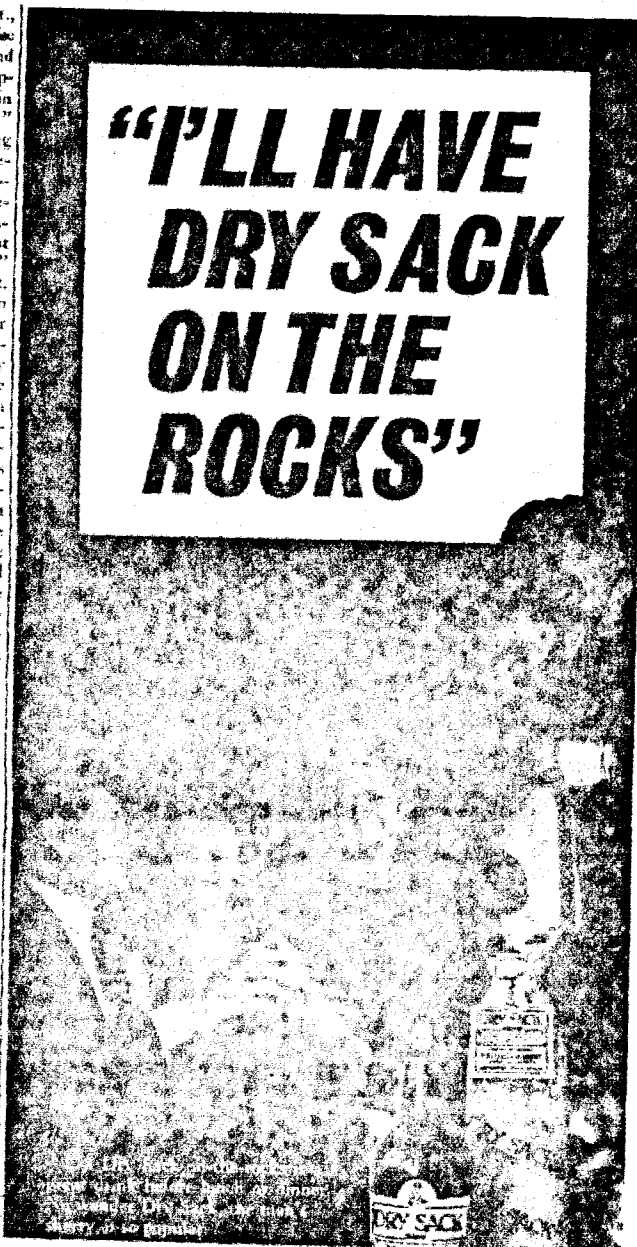
after dark. At about 10:45 P.M., Moon later testified, he heard a noise behind him and "turned around and saw a man standing with what appeared to be a burp gun . . . pointed in my direction." Shouting, "Look out!" to Mandella, Moen, who was sitting behind the wheel, drew his service revolver. Then, according to his testimony, the man fired a shot, and Moen returned the fire. Suddenly, from the other side of the car, there came what Moen called "another loud explosion," which he identified as a shotgun blast. According to medical reports, Moen was hit in the back of the right shoulder and the back of the left hand by shotgun pellets. Although he was badly wounded, he managed to get out of the car, empty his revolver at the man with the burp gun, and then run to the restaurant for help. Mandella gave a similar account, testifying that after his partner shouted, "Look out!" two shotgun blasts were fired into the car from the passenger side as the man with the burp gun approached from the opposite side. Mandella then turned and fired three shots at the assailant with the shotgun, who fled. Picking up the magnum, he urgently requested assistance, saying that he and Moen had been "ambushed." When other policemen arrived, they found Walter Touré Pope, twenty, who was subsequently identified by the Black Panthers as their "distribution manager" for Los Angeles, shot to death beside the police car. He had a two-inch revolver tucked in his belt, and there was a .40-caliber carbine, or "burp gun," lying under his left arm. A sawed-off shotgun, both barrels of which had been fired, was found a few feet behind the police car. (Another Black Panther, Bruce Darryl Richards, eighteen, was arrested later that night at the U.C.L.A. Medical Center, where he was being treated for bullet wounds, and was charged with taking part in the assault. He pleaded not guilty but was subsequently convicted on two counts of assault with intent to commit murder.)

The only witnesses to the shooting were those who took part in it, and thus the question of who shot first may be open to doubt—although the medical evidence that Moen was hit by a shotgun blast in the back would seem to suggest that the police were approached from behind.

THE CASE OF **WELTON ARMSTEAD**

In Seattle, at about 4:10 P.M. on October 5, 1968, Welton Armstead, seventeen, was shot to death by a police officer in front of a house at 1706

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Melrose Avenue. A few minutes earlier, Officers Erling Buntendahl and Charles Marshall, on a routine patrol, had received a radio message directing them to help Car No. 128 in a stolen-auto case at 1700 Melrose Avenue. When they arrived on the scene, they helped the policemen in Car No. 128 apprehend two of three suspects they had been pursuing. According to Buntendahl, while he was searching for the third suspect he came around the side of a house and was confronted by a man, later identified as Armstrong, a Black Panther, standing next to the garage, "holding a rifle with both hands and pointing it" at him. According to the prisoner's report, the armed man was asked four times to "drop the rifle" but refused to do so; instead, with one hand he grabbed the barrel of Buntendahl's revolver, raising his rifle with the other, whereupon, Buntendahl says, he himself fired, hitting Armstrong in the abdomen. An inquest jury, after hearing fourteen witnesses and considering the medical evidence, ruled the shooting "justifiable homicide." Grand jury does not dispute the fact that Armstrong faced Buntendahl with a rifle.

The Case of SPURGEON WINTERS

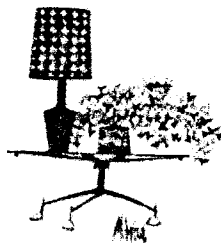
On November 13, 1969, Spurgeon (Jack) Winters was shot to death by police on Martin Luther King Drive on Chicago's South Side. Earlier that evening, James Caldwell, a black prison guard at the Cook County Jail, had told his wife, Kathy, that he needed some money to rent a room for the night, because "some guys are looking for me and they want to kill me." The night before, he had been in a brawl outside the Ravens Room tavern with Lawrence (Lance) Bell, a Black Panther, and had taken Bell's gun from him, and he feared reprisal from Bell and his friends. A few hours after Caldwell parted from his wife, someone entered the building where they lived and began pounding on apartment doors and calling Caldwell's name. Looking out a front window after the pounding had stopped, Mrs. Caldwell saw what she subsequently described as "four or five men leaving the building, some of them carrying a long gun." She then went across a connecting porch to her sister-in-law's apartment in an adjacent building, where she asked a friend, Leo

Wesley, for advice. Wesley said, however told police investigators, that she "didn't have any choice but to call the police," because "if James came back they would kill him." Wesley himself then called the police.

At 1:49 a.m., a police dispatcher received a report that there were "men on the street with shotguns," and at 2:33 p.m., according to the police computer cards and radio tapes, the dispatcher ordered the nearest patrol car, No. 226, manned by Officers John Gilibody and Michael Brady, to 124 East Fifty-eighth Street, the sister-in-law's apartment. Three other policemen joined them at the sister-in-law's apartment, which was at the rear of the building, and all five were then taken, across the connecting porch, to Mrs. Caldwell's apartment, where, from the front window, Mrs. Caldwell and Wesley pointed out to them the vacant building in an abandoned building across the street. Leaving by the front door, the policemen crossed over to the vacant building, and Gilibody started to go in through a gangway. Mrs. Caldwell stated, "We could hear the policemen by the gangway shouting 'Halt!' about three times. Then we heard a loud shot, and it sounded louder than a pistol shot. Then we heard some more shots. . . . Then we saw the policeman come out of the gangway. He was shouting 'Oh! Oh!' and he was holding a gun." Gilibody was fatally wounded, a shotgun blast having severed his aortic artery and his jugular vein. Brady had suffered minor lacerations of the forehead when the trigger of a shotgun exploded.

Mrs. Caldwell called the police to report that a policeman had been shot. At 3:04 a.m., the dispatcher put out an emergency call. "Police officers need help." Twenty-one patrol cars in the area immediately responded.

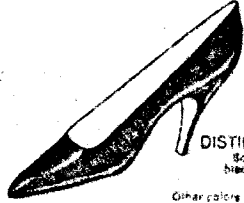
Another policeman was wounded almost immediately by shotgun blasts, according to police reports, and his police car was "demolished" by gunfire. One of the gunmen, who was allegedly carrying a carbine, and who was later identified as B-B, was shot in cross fire, and was captured. Meanwhile, three policemen had chased another man, carrying a shotgun, down an alleyway paralleling Martin Luther King Drive. He wounded all three and, taking refuge under the porch of a house on the Drive, shot another policeman.



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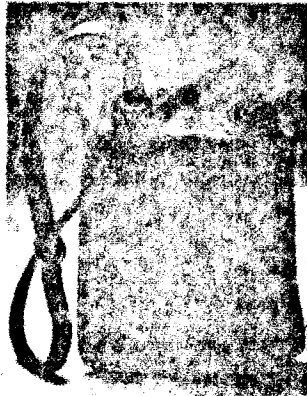


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Frank Rappaport, in the chest and head, killing him, and wounded another. Two policemen, including the one who had just been wounded, emptied their revolvers at him, fatally wounding him. The dead gunman was later identified as Spurgeon (Jake) Winters. In all, two policemen were killed and seven wounded or hurt. Bell was indicted by a grand jury for murder. The case is pending.

The Black Panther version of the incident was similar to the police version in a number of respects. A "special news bulletin" put out by the Illinois chapter stated:

On November 13, 1969, Jake Winters stood face to face and toe to toe, his shotgun in his hand, with Big Daley's murderous task force. He defied political power by blowing away racist pig Frank Rappaport and racist pig John Gilhooly and retired & other reactionary racist pigs before he was shot down.

The Black Panther newspaper reported the shootings this way:

Spurgeon (Jake) Winters, 19, member of the Illinois chapter of the Black Panther party, paid the most that one can pay towards the liberation of oppressed people—his life. At 3:30 a.m., November 13, Jake was murdered in a shoot-out in Chicago where three pigs were killed and seven were wounded. The shoot-out was precipitated by an ambush made by the Striking Army of Chicago (Chicago Public Department) on an abandoned building at 3801 S. Calumet. Arriving on the scene with the armaments and men (more than 1,000 policemen equipped with 12 gauge shotguns, M-1 carbines, .357 revolvers, bills, clubs, maces, riot gas, police weapons, helicopters, and canine units) for domestic warfare against the people in the Black colony, these 14 national pigs started their attack by opening fire on the brother in the building, Party comrade, Lance Bell, 20, who was wounded by the pigs as they shot wildly in that area. Jake defended himself as any person should do. In essence, he had no choice: it was kill or be killed.

There may be some reason for doubt whether the police were in fact mounting an "ambush," as the Panthers claim, or were simply responding to a call originally issued in the belief that James Caldwell's life was in danger, but the Panthers and the police agree that after the police arrived at least eight policemen were shot before Winters was shot.

THE CASE OF FRED HAMPTON AND MARK CLARK

The final case on Garry's list is certainly the most important one, since it is the one that prompted Garry to speak of a pattern of "zealotry." It involves the fatal shooting of Fred Hampton and Mark Clark by policemen attached

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to the State's Attorney's office in Chicago on December 4, 1969. While there may be varying degrees of uncertainty about some of the other deaths on Carry's list, these two unquestionably resulted from a deliberately planned raid on a Black Panther headquarters.

On December 3rd, Sergeant Daniel Groth, a twelve-year veteran of the Chicago Police Department who had been assigned to the State's Attorney's Special Prosecutions Unit, told Assistant State's Attorney Richard S. Jalovec, who was in charge of the unit, that he had received information from a "confidential informant" that a cache of illegal weapons, including stored-off shotguns, and also five guns stolen from the Chicago police, was stored in a Black Panther apartment at 2337 West Monroe Street. Having received information from the Federal Bureau of Investigation just the day before that the Panthers had recently moved weapons to that address, Jalovec immediately ordered Groth to plan a raid on the Panther apartment, and Jalovec prepared a search-warrant complaint. Circuit Judge Robert Collins signed a warrant later that afternoon.

Groth and thirteen other policemen assigned to the Special Prosecutions Unit assembled at the State's Attorney's office at four the next morning. They were heavily armed; five had shotguns, one had a Thompson submachine gun, and one—James Davis, one of five black members of the raiding party—carried with him a .30-calibre carbine of his own. The raid was planned for dawn, to achieve the maximum surprise and minimum potential for neighborhood interference, according to Groth's later testimony.

The raiding party arrived at the West Monroe Street apartment in three cars and an unmarked panel truck, and Groth, Davis, and three of the other members proceeded to the front door of the apartment, which was on the first floor; six members went around to the back door, and the three remaining members were stationed at the front of the building. At approximately 4:30 A.M., Groth pounded on the apartment door with his revolver butt. There was a markedly different response of what happened next.

In the police version, which was published in the Chicago Tribune, Groth shouted, "This is the police! I have a warrant to search the premises!" and then, after a delay, had Davis kick the door open. The two men entered a small hallway, where they were faced with another closed door. Suddenly, the police said, a shotgun blast

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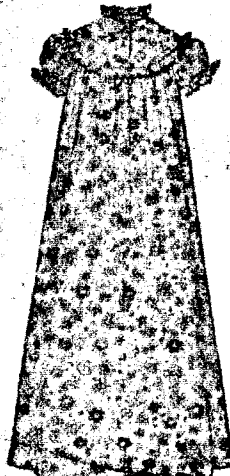


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from inside was fired through the door and "narrowly missed the two policemen." Davis then plunged through the inner door into a darkened living room, with Groth behind him, as a "second round went right past" him. Groth fired two shots at a woman who, he said, had fired the second shotgun blast, while Davis, after also firing at the woman and wounding her, turned and shot to death a man sitting behind him with a shotgun, who was later identified as Mark Clark. Moments later, three of the members of the raiding party who had gone around to the back broke in through the kitchen door of the apartment. Despite a number of calls for a cease-fire from Groth, the Panthers kept firing shotgun blasts, according to the police version of the events, and a "fierce fire fight" ensued, in which Hampton was killed and four other Panthers and one policeman were wounded.

In the Panther version, as it was reported in the *Washington Post*, the police burst into the apartment almost simultaneously through the front and rear entrances, without first identifying themselves, and although no Panthers fired any shots whatever, the police opened fire, also without warning. A Black Panther spokesman was reported in the *Post* to have said that Mark Clark was fatally wounded as he attempted to dodge police submachine-gun fire, and others were wounded. Meanwhile, according to the spokesman, the police entering from the rear went immediately to Hampton's bedroom and fired into it, and Davis then went into the bedroom and fired more shots at Hampton. In *Chicago Today*, the Black Panther spokesman added that "Hampton was murdered in bed while he slept" by a policeman who "must have come in the back door and murdered him



with a silencer." A few days later, a private autopsy, performed at the request of Hampton's family, concluded that hours before Hampton was shot to death he had been heavily drugged with Seconal, a barbiturate, which the spokesman deduced had been administered by a "pig agent" before the raid. The independent autopsy also concluded that the bullet that killed Hampton was missing, for the Panthers' pathologist found an entrance wound in the head but no exit wound and no bullet in the head. Lawyers for Panthers insis-

sted that the missing bullet had been secretly extracted and disposed of by the police, because it constituted evidence of murder.

A third version was rendered by a federal grand jury that had been specially empanelled to investigate the December 4th shootings. After having all the physical evidence recovered by both the police and the Panthers analyzed by the F.B.I. Laboratory in Washington and evaluating additional ballistic evidence uncovered by the F.B.I., and after hearing all the witnesses willing to testify, the grand jury concluded, among other things, that the Chicago police investigation of the raid was "so seriously deficient that it suggests purposeful malfeasance."

When Groth and Davis forced their way in through the inner door, according to the grand jury's assessment of the events, a 12-gauge slug was fired from inside the apartment and passed through that door as it swung open to a forty-five-degree angle. There were indications that the shotgun was no more than fifteen inches from the opening door. A 12-gauge slug found at the scene proved consistent with a shotgun that was next to Mark Clark's body and was stained with blood of Clark's type; the slug was also found to match the hole in the door. Moreover, an empty shell found nearby was "positively identified" as having come from the shotgun. Pivoting on that physical evidence, the jury posited that Mark Clark, sitting behind the door,

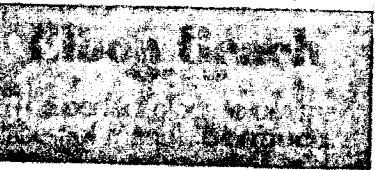
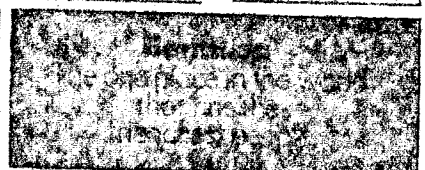
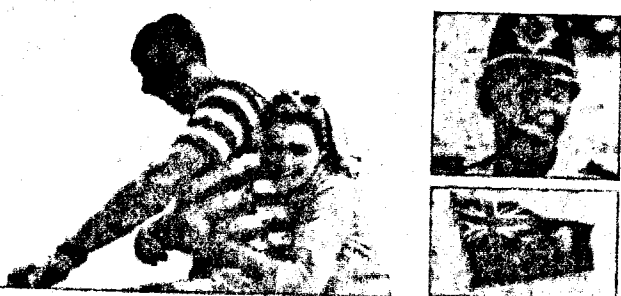
fired a shotgun blast through the door just as the police burst in. This, however, was the only shot that could be definitely traced to a Panther weapon.

The grand jury concluded that Groth and Davis apparently came in shooting, for one pistol shot had been fired through the door. Davis shot Clark, who was sitting behind the door holding a shotgun, and a woman then in the room, Brenda Harris, who was holding another shotgun. Minutes later, after the officers claimed they heard a shotgun blast from a bedroom adjacent to the living room, the wall between the living room and the bedroom was "stitched" with forty-two shots from a carbine and a submachine gun. One of those bullets passed through the first bedroom into a second bedroom, where it fatally wounded Fred Hampton in the right forehead. Another bullet, appar-

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with from the same volley, since it was traveling at the same angle, struck Hampton in the right cheek, and another struck him in the left shoulder. This last, the only bullet recovered from his body, proved to be a .30-calibre bullet from Davis's carbine. Aside from Hampton and Clark, four of the seven other Panthers in the apartment, as well as one police officer, were wounded by police gunfire in less than twelve minutes after the raid began. Eighty-three empty shells and fifty-six bullets were recovered from the apartment by the police, the Panthers, and the F.B.I., of which all but one shot-gun slug and one shell had been fired from police weapons. Although the police steadfastly maintained that at least ten or fifteen shots were fired at them by Panthers, a painstaking reconstruction by the grand jury suggests that, following the first shot by Clark, police entering from the back of the apartment mistook Davis's and Groth's shots in the front of the apartment for Panther gunfire, and the police in the front of the apartment similarly mistook the "return" fire from the rear of the apartment for continuing resistance. According to the grand jury's version, the officers very probably heard through the living-room wall under the erroneous impression that they were in a gun battle with Panthers.

The grand jury also attempted to resolve conflicts between the findings of the Panthers' private autopsies and those of the police autopsies by ordering Hampton's body examined and yet a third autopsy performed, by an official state medical examiner in the presence of both a Chicago pathologist from the coroner's office and a pathologist retained by the Hampton family. Two points were claimed by the trial autopsy. First, despite the statement of the Panthers' pathologist that there was no exit wound for the fatal bullet that entered Hampton's forehead, the autopsy plainly showed an exit hole in front of the left eye when the cadavers were sliced. Second, the Panthers claim that Hampton was in a state of drug-induced coma at the time of his death, which was not supported either by this autopsy, which showed the presence of drugs in the body, or by the report of the F.B.I. Laboratory in Washington, which had also tested the sample used in the Panthers' private autopsy. The toxicologist who performed the analysis for the Panthers told the grand jury that he had not performed the most specific test for Secobarbital, the gas-chromatography test, but had relied instead on a less sophisticated test, which re-



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quired some "subjective evaluation." In performing the gas-chromatography test on the same sample that the Panthers' toxicologist had used, the F.B.I. found no Second or other drugs in the sample but did find determination in the blood that could have been partially responsible for a mistaken analysis.

On the basis of the grand jury's meticulous investigation of the killings, it seems reasonable to conclude that Hampton was fatally shot not while he was "drugged" or by a policeman standing over him with a silencer, as the Panthers have claimed, but by a bullet fired by a police officer in the living room which had passed through two intervening walls at a time when no Panthers were firing at police.

ARE there any cases of Black Panthers killed in police part of a... through Hampton and Clark were... only Panthers killed as a direct result of a planned police raid, or even an situation in which the police could reasonably be supposed to have had advance knowledge... Black Panthers, it still might be assumed that the police involved had instructions of some sort to kill Black Panthers whenever the opportunity presented itself. The theory broached by John Kimer in the Times that the Nixon Administration had, through the statements of public officials, at least contributed to a change of opinion among local policemen that a "tactical open season" has been declared on the Panthers seems historically inaccurate, since five of the ten Panther deaths that can be directly attributed to police action occurred before the Nixon Administration took office. And, as far as I have been able to determine, no Black Panthers have been killed by the police in the period of more than a year that has elapsed since the Hampton-Clark incident.

In all of the new cases in which Clary's law has been violated, at least some of the Panthers involved were armed and presented a threat to the police. Six of the ten Panthers who were killed by security guards of police officers who fired, had reason to believe that their lives were in jeopardy. In none of these cases, moreover, have any positive indications to support a belief that the wounded policeman knew he would be shot by Black Panthers. According to the evidence that is available, Bartholomew, Lawrence, and Lewis were stopped as burglary suspects; Pope approached a robbery stakeout at night; Whittier opened fire when two

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police entered an abandoned building to investigate a citizen's complaint; and although it is agreed that Roberson took it upon himself to challenge the behavior of the police investigating the burglary of a fruit stand, it is not reported that he identified himself as a Black Panther.

In the four remaining cases, the fatal shots were fired by policemen who had not themselves been wounded. A further distinction might be made in taking account of the fact that in two of these deaths—those of Armstead and Clark—the police state that in each instance they were confronted by an adversary with a lethal weapon and had reason to presume that their own lives were endangered. Armstead pointed a rifle at a policeman and refused to disarm himself; Clark confronted a policeman with a shotgun, which, in fact, he had previously fired. In any event, there are occasions in which Black Panthers were killed by policemen whose lives were not being directly threatened by those men. These are the cases of Hyman, who was shot while allegedly running from the scene of a fifteen-minute gun battle in which three policemen had been wounded, and Hampton, who was apparently hit by stray bullets in a police and uncontrolled fusillade.

Four deaths, two deaths, or a single death must be the subject of the most serious concern. But the basic issues of public policy presented by the animosity of groups like the Panthers and by the sometimes brutal police treatment of angry and defiant black people in general can be neither understood nor resolved in an atmosphere of exaggerated charges of charges of "genocide" against the Panthers or of "guerrilla warfare" against the police—that are repeated, unvaried, in the press and in consequence widely believed by the public. The idea that the police have also fired a sort of open season on the Black Panther is, as a principle, as far as I can determine, on the assumption that all the Panther deaths cited by Charles Garo—twenty-eight or twenty or ten—occurred under circumstances that were similar to the Hampton-Clark raid. This is an assumption that proves, on examination, to be false.

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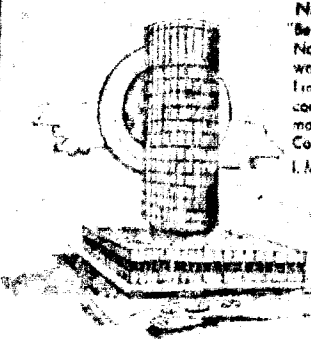
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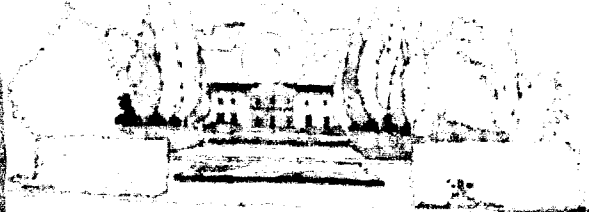
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