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LIFE EDITORIALS

Justice and the Panthers

From now on, it will be a little harder to question, as Yale's Kingman Brewster once did, whether a black militant can get a fair trial in the U.S. A New York jury has acquitted 13 Black Panthers who were charged with conspiracy to bomb police stations and department stores. What is significant is not the outcome, but the fact that the defendants enjoyed the same procedural rights that would be accorded to any other group of Americans in a similar situation—enjoyed them, in fact, to the point of excess in courtroom behavior. The most serious complaint might be the delay in bringing the case to trial; ten months spent in jail awaiting trial is itself injustice. But court delays are a general problem these days, affecting all criminal defendants and shocking in all cases.

Still, in how many countries, given the same circumstances, might the defendants have fared so well—had their boisterous and lengthy day in court, and also had the proceedings fully

and fairly reported by the media? Here were 13 members of an avowedly revolutionary, paramilitary organization which at least *talked* and *wrote* of killing policemen and blowing up buildings, who screamed “racist pig” at State Supreme Court Justice John M. Murtagh, and who were so disorderly during pre-trial hearings that the judge had to suspend the proceedings until the defendants promised to observe courtroom decorum. Many Panthers and their sympathizers nevertheless were convinced that justice was out of the question, the whole thing being a “political trial.” The defendants, said their lawyers at one point, were “mere pawns in a studied and calculated plan on the part of national and local officials to literally eliminate them for being members of the Black Panther party.” Once trials are regarded as polarized, as Chief Justice Burger remarked last week, defense attorneys confuse “insolence and arrogance” with zealous advocacy, and the trial judge himself, under greater stress than usual, “is subject to the temptation to respond in kind.” After the first flareups in the New York Panther case, “order in the court” generally prevailed. But lack of civility wasn't the only problem. Two of the defendants, in midtrial, jumped bail of \$50,000 and \$100,000, respectively, and fled to Algeria, proclaiming they had no chance of justice.

The trial was one of the longest in the state's history and cost the state of New York close to \$2 million. And when it was all over, it took the seven white and five black jurors only 90 minutes to return with a unanimous verdict of “Not guilty”—even clearing the two who fled to Algeria. Said one white juror: “The government just did not prove its case.” There were grounds enough for the original indictment, but as the outcome shows, it is one thing to prove that defendants had a motive to engage in terrorism, but quite another to show—as undercover witnesses were unable to do convincingly in this case—that the defendants actually had an *intent* to carry out specific acts.

So much for all the Panther talk about “fascist” justice: our trial system, when given half the chance, is durable enough to assure a fair trial even to those who set out to mock and destroy it.