

## Justice on Trial

P. 2/5/70

The Black Panther conspiracy trial now opening in New York threatens to become as much a mockery of the judicial process as the conspiracy trial now drawing to a close in Chicago. And while much of the blame is doubtless attributable to the obstreperous behavior of the defendants and their lawyers, the conduct of the prosecutors and the courts in both cases has left a great deal to be desired. No one concerned for the quality and the high repute of American justice can feel comfortable about these trials.

Twenty-one members of the Black Panther Party, of whom 13 are now on trial, were indicted in New York about 10 months ago on charges of plotting to kill policemen and to dynamite city department stores, a police station and a commuter railroad right of way. These are sensational charges; and they differ in essential character from charges that the defendants actually, individually or collectively, committed such crimes.

If a conspiracy indictment presents special problems for the prosecution, it also puts a very heavy burden on the defense. In the New York Panther trial, the burden has been made especially heavy by the fact that for eight months the defendants were scattered in six jails. Their chief counsel complained that this kept them from preparing their defense effectively. Newspaper reporters were denied access to them which meant that all accounts of the case reaching the public came from police and prosecutors who indiscriminately characterized the defendants as dangerous terrorists.

The Black Panthers now on trial range in age

from 17 to 33, and nearly all of them are indigent. Consequently the bail set for most of them at \$100,000 each meant that they had no possibility of release. It is not surprising that their lawyers complained that this was "exorbitant and excessive" bail, subjecting their clients, in effect, to preventive detention and frustrating their chances "to secure witnesses, consult effectively with counsel, prepare for trial."

Add to all of this a widespread feeling that the police have been out to "get" Black Panthers just because they are Black Panthers and you have a smouldering basis for mistrust of the machinery of justice in the New York trial. The defendants feel that the courts are merely an additional element in a social order rigged against them. Of course, they have declared war on that social order; and to the extent that they have actually violated its laws, they must be restrained and punished. But it is vital, for the sake of sustaining general faith in the social order, that they be dealt with fairly and in full accord with the demands of due process.

Judge Murtagh who is presiding at the New York trial is a tough, able and experienced jurist. We hope that he will keep his cool better than Judge Hoffman in Chicago. To keep his court from being converted into a circus by the antics and deliberate provocation of the defendants, he may have to make stern use of his power to punish for contempt. But he owes the defendants more consideration and forbearance than they have so far received from the agents of the law.