

3/13/70

LIFE BOOK REVIEW

The politics of law and order

JUSTICE

by RICHARD HARRIS

(E. P. Dutton & Co., Inc.) \$6.95

Where does justice come from? It comes from a department, like everything else. Americans are romantic about this: they still prefer to think it comes from Spencer Tracy (after Pat O'Brien has made the arrest). And law-and-order candidates have encouraged this pretty story.

In cold fact, the federal end of justice comes from 35,000 bureaucrats trying to decide what to do next. Since there are enough laws on the books to arrest most of us several times over, and we keep stockpiling them, justice must be an interpretive art. The same body of laws can produce different tunes, different societies, when different performers sit down to play it.

It is Mr. Harris' notion that Ramsey Clark, L.B.J.'s last Attorney General, played the instrument right and that John Mitchell plays it wrong. Clark's aim was to take law enforcement out of politics—no easy task, law being what politics is all about—and to fashion a model Justice Department that could function under any Administration.

Mitchell, contrariwise, considers Justice to be an arm of the President—even when the President is simply reaching for votes. A slight shift in the kind of cases pressed can do wonders in the South. A flurry of wiretapping can calm the conspiracy buffs—the people who think real spies and Mafiosi blurt out their secrets by phone.

As Harris tells it, Clark sounds almost too good to be true, and Mitchell almost too bad. When Clark comes out for prisoner rehabilitation, he is being enlightened, but when Mitchell does the same he is playing politics. It's a pity the bias shows, because it wasn't necessary. Mitchell usually plays politics so obtrusively that he must want to be found out.

The present politics of Justice goes

back to 1968, when campaign manager Mitchell decided to make his predecessor a sacrificial goat. Mr. Nixon always likes to have one, and his Clark-baiting became a crowd-pleaser. Yet now we learn that "Nixon actually held Clark and his work in high esteem." Mitchell explained this to Clark at a party, adding, Harris tells us, that the campaign attacks had merely been "a simplistic way to personalize the crime issue," and that both Nixon and he felt an apology to Clark might be in order. Ah, the things people say at parties.

Clark's chief defect seems to have

been a stoic refusal to fight back. This may strike one as a little priggish in a public man. Otherwise Nixon's post-facto esteem seems well placed. Faced with law-and-order congressmen who wouldn't give him an extra dime, law courts that galumph along a good ten months behind the permanent crime wave, prisons that serve as the world's greatest crime hatcheries and police departments that would rather spend their allowance on Mace than on training themselves, Clark still managed to provide just the kind of enforcement that Nixon

himself seemed to be promising us.

But since he was supposed to have been such a failure, a great show of change was necessary. This meant, Harris says, more than the usual incompetent year or so, as new recruits pretended to be solving the problems of a lifetime. It involved a brutal housecleaning of a dedicated and efficient department and some curious changes in style. The department took more and more to political grandstanding: waving a reprieve at the White South in the matter of segregation delays, offering a few dissenters' heads on a platter in Chicago.

Look at it this way, sir: If it doesn't work, you can say to the Right, "We tried," and to the Left, as Mitchell already has, "Watch what we do, not what we say." This may bring us together long enough to vote, but it certainly makes a monkey out of the U.S. Justice Department and everything Ramsey Clark was trying to do with it.

by Wilfrid Sheed



Ramsey Clark and portrait of his father, former Supreme Court Associate Justice Tom Clark