

# The Fearless Spectator

Charles McCabe

## Moral Wrongs, Civil Rights

MONOMANIA has its goods and its bads. A lot of good has come from cause-obsessed people — if history has agreed on the final usefulness of the cause. This is not always. The internal combustion engine looked great when it started.

On the other hand, the man with the hair shirt is likely to blame every evil in the world on a failure to embrace his Good. Like, left-handed pitchers somehow responsible for the currently chic war, and other nonsequiturs.

It's pretty well-known that I've a thing about using cops as priests, wasting our national life by busting people for things like playing pin-ball machines and peddling their bodies. There are times when even to myself the case looms too large in my mind. Every evil seems to spring from our moral hypocrisy.



Yet the truth is, this thing of so-called non-victim crimes goes into many crannies. Take the matter of the Bill of Rights, the basis of our free civilization. The beating this collection of measures is taking, the systematic and planned erosion of civil rights under the Nixon Administration, is largely based on the existence of non-victim crimes.

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THE INFAMOUS District of Columbia Crime bill of 1970 was passed amidst a pothole about the awful killer weed, marijuana. To protect the citizens of the District from the dire consequences of cannabis use a measure was passed which provided for preventive detention, no-knock police searches, mandatory minimum sentences, court-approved wire-taps by police and other measures which to civil libertarians were and are clearly unconstitutional. If anti-pot laws did not exist, this measure would have been unthinkable, though doubtless something else could have been thought up by Attorney General John Mitchell, to fill the bill.

The ground for this repressive measure had been prepared on the federal level by the Safe Streets and Crime Control Bill of 1968, aimed against "organized crime." This is another way of saying, against those who benefit from the traffic in sumptuary laws — gamblers, mostly. This sweeping measure included among other ingredients: bloc grants of law enforcement funds to the states, sweeping new wiretapping authority and a blow at key Supreme Court decisions on admissible evidence.

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ANOTHER Nixon-sponsored measure, the 1970 Organized Crime Control Act, got the FBI on the college campus in bombing and arson cases, and empowered judges to impose additional sentences of up to 25 years on certain "dangerous and adult special offenders" who are convicted of crimes which carry lesser penalties.

The American Civil Liberties Union, which worries about the Bill of Rights and its provisions, expressed fears at the time that the measure would not be used against organized crime so much as "against militant groups, Black Panthers and others the administration considers as dissident."

"It is no accident," says Professor Herbert Packer of the Stanford Law School, "that almost all the spectacular cases of unconstitutional searches and seizures, of entrapment and of electronic eavesdropping occur in the pursuit of criminals whose crimes do no visible injury and therefore evoke no complaints: the narcotics trafficker, the numbers runner, the prostitute."

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IT IS INDEED a frightful price we are paying in our fundamental liberties by creating a class of criminals which has no status before Congress, no lobby to fight for its interests, and which is totally vulnerable to the law and order, or crypto-Fascist, mentality.

The other day a bitter commentator said he was quite sure that Mr. Nixon when he became President, did not swear to destroy the U.S. Constitution. "But what difference would it have made if he had?" His man Mitchell has now retired after making a record against civil liberties unmatched by any Attorney General. And Mr. Mitchell's entering wedge was a body of laws which a great many of us think should not be on the books at all.