

Who Was Subversive?

The "horrors" of the Nixon Administration were hardly confined to the White House, as former Attorney General John N. Mitchell would have had everyone believe. One of the "Justice Department horrors" of Mr. Mitchell's law-and-order years is gradually coming to light in a North Carolina courtroom.

Prosecutors in a 1972 arson trial of three black activists in Charlotte have now conceded that the Federal Government had made cash payments and granted immunity from prosecution to two key witnesses, and had failed to report that information to the defense. One of the witnesses was a convicted armed robber and suspect in five murders at the time of his testimony. The deal had been specifically approved by then-Assistant Attorney General Robert C. Mardian, a close associate of Mr. Mitchell now on trial with him and others of the Nixon Administration in the Watergate conspiracy case. Judge Sam Ervin 3d has agreed to rule this month on a defense motion to overturn the original convictions.

The effect of this case is to raise questions whether there might have been other little-noted prosecutions in which proper constitutional procedures were conveniently overlooked by the Justice Department in furtherance of a political campaign against dissidents. It would be a good idea for bar associations and other lawyers' groups around the country to re-examine questionable state and local convictions of those years to discover if there had been improper pressure from Washington. There may be persons unknown to the general public still confined to prison as victims of a prosecutorial zeal that seemed to recognize no constitutional bounds.