

# Justice Department's New Image:

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WASHINGTON, Dec. 24—In its first year under Attorney General John N. Mitchell, the Department of Justice seems to have taken on the look of the strong right arm of the White House.

Fairly or not, to many people in this image-alert city, President Nixon and Mr. Mitchell appear inseparable.

If this has created joy among partisans of change in the philosophy of the Department of Justice, it has caused concern among traditionalists who believe the agency should pay homage first to the law and secondly to the President.

In part, the appearance of close partnership between the White House and Justice reflects the nature of the Government. Most departments, bottom-heavy with entrenched bureaucracies, take time to assume the fresh look of a new Administration. Justice, more spare in size and less tied to programs, can more readily remake its image.

But the relationship has other roots. The department is led by the man said to be closest to the President personally. And it is to Justice, focal point of Mr. Nixon's 1968 campaign rhetoric, that so many of the policy moves of his Administration have been linked.

## In the Thick of Disputes

In the major political controversies of Mr. Nixon's first year—voting rights, school desegregation, the nomination of Clement F. Haynsworth Jr. to the Supreme Court—Mr. Mitchell and his department have played leading roles.

At the same time, they have responded to the 1968 call for a crackdown on crime and disorder in less spectacular, but still controversial, ways.

They have gone after gamblers and public officials alike in a Newark investigation; sealed and then unsealed the Mexican border in a search for smuggled drugs; gone to trial against the "Chicago 7," relaxed rules on admissibility of questionable confessions in court; reinstated the honor in eavesdropping; kept a Belgium Marxist lecturer from our shores, and even protected Americans from the sight of erotic Picasso paintings.

The department's role in the push for integration of big city construction crafts brought yelps from some in Congress and the labor movement, and its effort to slow the pace of Southern school desegregation produced vocal dismay from civil rights groups and some in Congress.

In the touchy antitrust area, the Republican Administration has surprised some skeptics with an aggressive attitude toward conglomerate mergers, but disappointed clean air crusaders with an out-of-court settlement of the Johnson Administration's attempt to pin blame on automakers for much of the nation's smog.

# Nixon's Right Arm

## Little Lateral Debate

If the Nixon Administration has pledged to permit its agencies to argue in public between conservative and liberal alternatives on issues, in the Justice Department there is little of such lateral debate on what its various divisions are doing. Division heads confess they have little knowledge of what their fellow assistant attorneys general are up to; they view their responsibilities as though each division were a separate law firm.

Under Attorney General Ramsey Clark, the man Mr. Mitchell replaced, the Justice hierarchy was essentially composed of professional lawyers with a common concern for the individual in American society. Under Mr. Mitchell, a majority of the key posts are filled with men schooled in politics as well as law, and the new mood is one of concern for the common good.

It is this shift that is pleasing to Mr. Nixon's partisans and troublesome to his critics. When 65 of the 74 staff lawyers in

the Civil Rights Division protested the Administration's go-slow request in Mississippi school desegregation, they saw it as a conflict between politics and law. A Democratic Senator, George McGovern of South Dakota, accused Mr. Nixon of seeking to "make partisan politics a dominant concern of the Department of Justice."

And Ramsey Clark, while declining to go that far, warned that "if the Attorney General doesn't have the law as his first master, then we're not a government of law. It's as simple as that."

It may have been no more than campaign oratory, but Mr. Nixon, in 1968, saw the problem of law and order in equally simple terms. "If we are to restore order and respect for law in this country," he said, "there's one place we're going to begin: We're going to have a new Attorney General of the United State of America." He chose John Mitchell.

## Judgment Values by Nixon

John Newton Mitchell, 56, a puckish, somewhat shy man, entered politics only last year, when he became Mr. Nixon's campaign manager. He got the job because the President had come to value his judgment during their Wall Street law partnership.

But if Mr. Mitchell was new to politics (and he still insists he knows no more about it than his secretary), most of the men chosen to fill key Justice Department posts were not, a factor that led Democrats—and liberals of all stripes—to be suspicious.

Richard G. Kleindeinst, at 46, had a law practice in Phoenix, but was noted for his service as Arizona's Republican chairman, as general counsel to the Republican National Committee and most significantly, as field director for both Mr. Nixon's 1968 campaign and for that of Barry Goldwater four years earlier. He became Deputy Attorney General.

Other sensitive posts went to lawyers schooled in partisan activity. The Criminal Division, the center of Mr. Nixon's promised assault on crime, was placed under Will R. Wilson, a 57-year-old former Texas Attorney General and Texas Supreme Court Justice with a hardnosed attitude toward lawbreakers. He had been defeated, as a Democrat, in races for both Senator and Governor early in the decade.

Jerris Leonard, following defeat last year in a Senate race in Wisconsin, took charge of the Civil Rights Division with little more background in that area than sponsorship of a state open housing law during his 12 years as a state legislator.

And William D. Ruckelshaus became head of the Civil Division after another defeat in a 1968 Senate race, in Indiana. He had been a legislator for two years and had been in the state attorney general's office five years.

Of all the new Mitchell as-



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**AT WORKING LUNCHEON AT JUSTICE DEPARTMENT:** On the left at the far end of the table is Attorney General John N. Mitchell. Others, reading clockwise: Richard G. Kleindienst, Deputy Attorney General; Erwin N. Griswold, Solicitor General; William D. Ruckelshaus, head of Civil Division; Will R. Wilson, head of Criminal Division; Richard W. McLaren,

head of Antitrust Division; Jerris Leonard, back to camera, head of the Civil Rights Division; Leo M. Pellerzi, head of Administrative Division; Jack C. Landau, public information chief; Shiro Kashwira, head of Lands Division; Sol Lindenbaum, executive assistant to Mr. Mitchell; Johnnie McK. Walters, Tax Division head, and William H. Rehnquist, legal counsel.

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sistants, only one—Richard W. McLaren in the Antitrust Division—had an established national reputation as a lawyer.

And if he was not a politician, the new head of the Office of Legal Counsel—the post of the President's lawyer's lawyer—got his job because he knew one. William D. Rehnquist took over the legal adviser's post after five years in a four-man Phoenix law firm doing what he described as "cats and dogs" legal work. The reason, he candidly said, was that he was "A friend of Kleindienst."

Partisans of justice as practiced under Presidents Kennedy and Johnson, when the department had a decided interest in problems of the poor, the black and the accused, were not surprised when such an assemblage of successors began tinkering with school desegregation and taking fresh stances on such issues as voting rights and wiretapping.

Inevitably, the department began to be described as the Nixon Administration's mechanism to carry out a "Southern strategy"—a political appeal to the South and to the more conservative voters elsewhere.

Mr. Mitchell bridges at such suggestions. The Nixon Administration has outstripped its predecessors in school desegregation, "through negotiation rather than confrontation," he says, and he contends that the Administration's voting rights approach merely would extend to the entire nation the existing ban on discrimination in voting procedures in the South.

#### 'Sensitive to Politics'

Those who speak of a Southern strategy "don't know what the hell they're talking about," the Attorney General says.

Deputy Attorney General Kleindienst, who says that he and Mr. Mitchell think alike on nearly all matters, may fit his boss's description.

"The Department of Justice is probably more sensitive to political philosophy than any other department of Government," he said. It must react to the views of the President's constituency, Mr. Kleindienst says, since "to turn this place into a bunch of technicians would not take account of the plebiscite of every four years."

It was just such a view that led to the revolt among the civil rights lawyers. When the division was asked to defend the Nixon Administration's request for more time to desegregate Mississippi schools, they protested and one of their leaders, Gary Greenberg, refused.

In the December issue of The Washington Monthly, Mr. Greenberg wrote that he had resigned after arguing with his superior, Jerris Leonard, that his obligation was to the public interest and enforcement of the law, "Mr. Leonard then made his attitude on the meaning of law enforcement very clear," wrote Mr. Greenberg. "Around here the Attorney General is the law," he said.

Even so, Mr. Leonard con-

tends that his support of the go-slow approach in Mississippi was not political. "We never said we're not going to enforce the law; we said there is a better way to do it and we are trying to do it," he insists.

#### 'Carrot and Stick'

The better way, he believes, is to change the Government's attitude from that of "a big stick" approach to "a carrot and stick," especially when dealing with diehard Deep South school officials who would sooner lose Federal school funds than face boycotts by white parents.

But during the furor over the Mississippi case, Mr. Leonard's staff lawyers concluded that the Administration was indeed responding to political pressure, from Mississippi's Senator John Stennis, who was about to take up the defense of Mr. Nixon's antiballistic missile program.

Replying to the staff's protest letter, Mr. Leonard said that "all Government agencies are constantly subjected to political pressures from all sides of the political spectrum."

In an interview, he explained what he meant: "I don't think you can take into account likes and dislikes [of politicians putting pressure on the Justice Department]. But you have to take into account the facts of the likes and dislikes. For example, if you know you are going to have massive boycotts [by white parents], aren't you better off to ease desegregation, perhaps over a two-year period?"

If the school desegregation issue is the most prone to political pressure, it also is the easiest in which to demonstrate it. But there are other aspects of the Justice Department's activities that have drawn jaundiced looks from liberals.

One is the voting rights package that Mr. Nixon pushed through the House, which would strip existing law of a prohibition on changes in state voting regulations unless cleared by the Government.

Others are the apparent air of diminished concern over rights of the accused, the investigations of antiwar groups, the renewed vigor in wiretapping, and the blunt attitudes (later softened) toward users of marijuana.

#### Legal Competence Questioned

Ramsey Clark, granting that his successors at Justice may be well intentioned, nonetheless has said: "People are affected by their experience. If your experience has been political, I don't know how you are sure, however hard you may try, that your judgment isn't affected by that."

Others, including some who are perhaps less troubled by outright political approaches to legal problems, say privately that a big problem in Attorney General Mitchell's shop is that the politicians are not good lawyers.

Mr. Rehnquist reportedly assured President Nixon that Judge Haynsworth's record was "clean," a judgment the Senate refused to accept in rejecting

his nomination to the Supreme Court, in part because of questions about his financial relationships.

Gary Greenberg wrote that Civil Rights Division lawyers were "shocked" by Mr. Leonard's legal "incompetence." Mr. Leonard replied in an interview that he had "handled a lot more cases, including jury cases — which is where you earn your reputation — than most of the lawyers here." Earlier, he described his Milwaukee law practice as "mostly plaintiff and defense work in automobile cases."

Mr. Kleindienst, in defending the Administration's approach to desegregation of schools, said it was proceeding "in a manner calculated to educate children in the South in a dual school system, in accordance with the mandate of the Supreme Court."

#### 'Dual' and 'Integrated'

A reporter asked whether Mr. Kleindienst had said "dual" school system.

"Yes, that's a term that means integrated," he replied.

The reporter said he understood it to mean "separate."

"Well, the point is we're going to integrate them," explained Mr. Kleindienst.

Mr. Mitchell and Mr. Kleindienst both believe it is beneficial for Justice Department lawyers to have a background in politics. "You can't fault somebody for having governmental expertise," said Mr. Mitchell.

Even so, the crucial question — whether he would respond first to the law or to the President if he thought they were in conflict—is answered clearly by Mr. Mitchell: "I'm afraid our responsibility would be to the people and the law."

In any event, the Attorney General does not believe any conflicts will arise under President Nixon, nor does he agree with the critics that principle and politics have already clashed.

Apparently the President agrees. Asked if Mr. Nixon might feel certain that the Justice Department is being run properly by his former law partner, Mr. Mitchell replied:

"We haven't had any complaints yet."