

Charles McCabe Himself

'Mr. Law 'n' Order'

IT IS no news that the Nixon Administration is in disarray. To understand the extent to which the camp has been thrown into disorder, it may be useful to focus on the downfall of John Newton Mitchell, the nation's chief law officer when he was attorney general.

How, indeed, the mighty have fallen!

In 1972, Mitchell or the mention of his name could strike the fear of God into every operator in Washington. He was ruthless, and he loved it. He was to Mr. Nixon what the infamous Fouche was to Napoleon: the executor, and if need be executioner, of a policy which was designed to uproot total political dissent.



If Mitchell had his way, which he pretty much had in those days, anyone who disagreed effectively with the Nixon policy, especially the conduct of the Vietnam war, would have been put to the rack, or the garrote. He was, in truth, the Grand Inquisitor and gloried in the role.

Contempt was the Mitchell style. One of the things which earned his whole-hearted contempt was the Bill of Rights. In 1971, before the Virginia Bar Association, Mitchell defended the use of domestic wiretaps against his fellow citizens without court order.

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“THE CONSTITUTION of the United States cannot possibly be construed as containing provisions inconsistent with its own survival. It is a charter for viable government — not a suicide pact.”

Mitchell was referring to radical domestic vio-

lence directed at the Vietnam war. Later in the same speech, he said: “It is our position that compelling considerations exist when the President, acting through the attorney general, has determined that a particular surveillance is necessary to protect the national security and that under these circumstances the warrant requirement does not apply.”

Had this extremist view prevailed, the nation would have made a quantum leap towards the total state. On June 19, 1972, the Supreme Court unanimously disagreed with Mr. Mitchell, striking down as unconstitutional the domestic security wiretaps Mitchell had proposed. The high court then included four Nixon appointees.

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MITCHELL'S contempt for individual rights, which unquestionably reflected the views of the President he served, brought him into such controversial fields as no-knock arrests, preventive detention, and pre-arrest identification. He earned the name Mr. Law 'n' Order.

No-knock meant cops could knock down a suspect's door without identifying themselves as police officers. Preventive detention meant persons accused of a crime whom the cops thought would commit further crime if set free on bail, could be jailed before they were tried. Pre-arrest identification would have allowed cops to give all kinds of physical tests to a suspect before he was even charged with a crime.

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NONE OF THESE measures got much of anywhere, even with the prestige of the attorney general's office behind them. This was because prosecutors rarely used no-knock or preventive detention in the one place where it was legal (Washington, D. C.) because they privately doubted its constitutionality.

The funny thing was, Mitchell didn't know a damned thing about law and order. All his legal life had been spent as a municipal bond expert for a large New York law firm. He hardly knew a cop or a criminal. He had literally no experience in the field which earned him his sobriquet.

Now, Mr. Law and Order stands indicted twice, for obstruction of justice in the Vesco case, and for his role in the Watergate coverup. Hubris, the insolent pride of the old Greeks, has been struck down again.