

A Case of Pneumonia and Confrontation

As Richard Nixon emerged from the South Front of the White House, he seemed forlorn, his shoulders sagging. None of his family were with him. He climbed into his long Lincoln limousine with his new chief of staff, General Alexander Haig. The eight-car motorcade, led by a car full of Secret Service agents, slid off into the cool, clear Washington night. Thirty-eight minutes later, again looking preoccupied and rather alone, Nixon checked into the third-floor presidential suite at Bethesda Naval Hospital. The President, said his personal physician, Dr. Walter R. Tkach, had come down with viral pneumonia (see MEDICINE).

"I suspect it did not come on suddenly," Tkach told reporters at the hospital. "I suspect he felt tired and didn't want to say anything to me about it." Just returned from a 16-day sojourn at San Clemente, Nixon had begun feeling pains in his chest on Wednesday night. He put in a full day's work on Thursday, then finally agreed Thursday night to check into the hospital. Tkach (pronounced tuh-kosh) said that the President would spend from seven to ten days there. He was, said Tkach, "moderately sick." Nixon was given an antibiotic and an analgesic, and cut down his work load to one-quarter of its normal amount. With his pneumonia, he was running a temperature (between 101° and 102°), and his breathing was slightly quicker than usual.

Nixon has often said, "I never get sick." The timing of the presidential illness, of course, aroused both worried speculation that the condition had been brought on by the strains of Watergate and some cynical words around Washington about a "psychosomatic illness." There was no evidence whatever to suggest that Nixon's illness was more serious—or less serious—than stated.

Complex Battle. Even without his pneumonia, it had not been a happy week for Nixon, whose last unmitigated joy was probably his Inauguration night months ago. Quite apart from the public testimony, the Senate's Watergate investigating committee was bearing down on Nixon in a complex battle to force him to release White House papers that might reveal the inner mechanics of the scandal.

Tennessee's Howard Baker and North Carolina's Sam Ervin were determined to pierce the shell of Executive privilege with which Nixon sought to protect the papers. Letters were exchanged. First, Nixon, on July 6, flatly refused to let the committee see any White House documents. He also stated that he would not agree to testify before the committee.

Last week, during an executive session, the committee agreed on Baker's

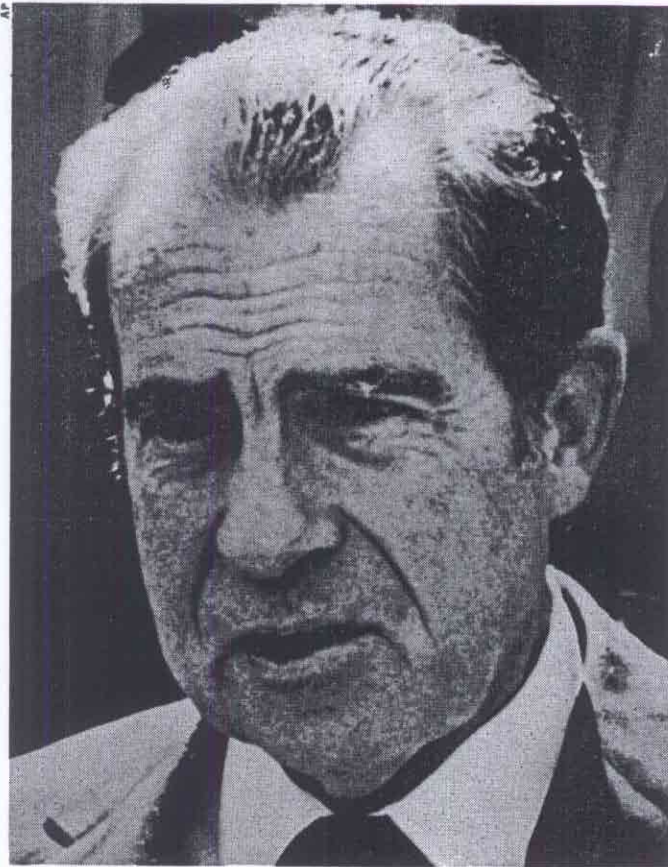
plan to draft a letter to the President requesting a meeting to resolve the question of the documents. Then Ervin put through a call to the President, who at that moment was trying to ignore his pneumonia. "We really need those documents," Ervin told Nixon. "And we need to discuss the matter with you." Ervin went on to explain that documents dealing with politics or alleged illegal conduct could not be covered by Executive privilege. "What I really want," said Ervin, "is for me and Howard Baker to come down and talk to you about this thing."

Nixon agreed to meet with Ervin—but he pointedly excluded Baker, a reflection of the President's irritation with the Tennessean. The insult raised some eyebrows in Washington, but it did serve to establish once and for all Republican Baker's independence of the White House. The stage, at any rate, was set for Ervin to meet Nixon, after the President leaves the hospital. Ervin said, however, that the committee would not take the issue to court if the President were to refuse to honor a subpoena for the documents.

Rather, he explained, the committee would "simply allow the President to take the adverse inference that would be drawn from his action."

The Administration had other miseries with Congress last week. The Senate Foreign Relations Committee rejected Career Diplomat G. McMurtrie Godley's nomination to be Assistant Secretary of State for East Asia and Pacific Affairs. As Ambassador to Laos since 1969, the committee's majority decided, Godley had been less than cleanly. Chairman J. William Fulbright and some others believe that Godley was involved in running a secret war in Laos during his tenure, and was part of a fraternity of Indochina experts responsible for most of the American mistakes there. The committee emphasized that it did not question Godley's skills and was willing to approve him for a post somewhere else in the world. The White House and the State Department implied that the committee was penalizing a career diplomat for obeying his instructions. But as much as anything, the committee was simply voting to bring some fresh thinking to the nation's Indochina policies.

There was some solace for Richard Nixon. The Young Republicans, meeting in Atlanta, passed a rousing reso-



NIXON BEFORE ENTERING HOSPITAL LAST WEEK
Also miseries with Congress.

lution of support. On Wednesday night, ten conservative Republican Senators, led by Nebraska's Carl Curtis, went to the White House for cocktails. A month before, Curtis had stood on the Senate floor and declared: "Our President is an honest and honorable man. I believe in him and I want the whole world to know it." Nixon was grateful, and so last week he invited the ten Republicans to join him in the White House library, where he discussed the budget, the energy crisis, foreign policy and, briefly, Watergate. One Senator quoted the President as saying: "I don't expect people to believe in my morals so much as in my having some common sense. The whole performance was so asinine that I'd hate to have people think I knew about it in advance." And then, ambiguously: "As for covering it up, I don't think anybody would expect me to go around bragging about it."

Senate Minority Leader Hugh Scott, who did not attend the cocktail meeting, recalls the President's telling him recently on a flight aboard Air Force One: "People can say what they want about me, but one thing they can't say. Stupid I'm not. If I had caught any of these people involved with these goings-on, I'd have fired their asses the hell out of there."

Mitchell: "What Nixon Doesn't Know..."

Caught by the piercing television cameras in the Senate Caucus Room, the two John Mitchells seemed too much of a contrast to be reconcilable:

The first Mitchell was the familiar figure of old, the nation's serenely confident chief lawyer and the President's top political strategist. The voice was firm, the denials of personal wrongdoing scathing ("a palpable, damnable lie"), the humor bitingly heavy (on the Watergate conspirators: "It would have been simpler to have shot them all").

The second Mitchell, harshly questioned about his judgment and his truthfulness, seemed shrunken and subdued. His words slurred, his eyes watered, his face was flushed. This Mitchell, out of power and in eventual danger of being jailed, was bitter, muttering into the microphones: "It's a great trial being conducted up here, isn't it?"

Millions of viewers might admire, however grudgingly, the bravado of the first Mitchell, and sympathize at least fleetingly with the pained posture of the second. Yet as the former Attorney General undoubtedly would agree, those sentiments do not really matter. What was of possible historical consequence was whether Americans believed the insistent protestations of both these Mitchells about the innocence of Richard Nixon in all of the many Watergate-related crimes and deceptions.

Frail Peg. Where the President was concerned, said Mitchell, his policy in effect had been "speak no evil," and the President had been quite ready to see and hear no evil. Mitchell claimed that he withheld what he knew from the President in their many conversations. Mitchell also claimed to be convinced, not by anything the President said but by what was not said in those conversations, that no one else, including John Dean, had told the President who had been involved in the Watergate planning or its cover-up until at least nine months after the arrests at Democratic national headquarters. Moreover, despite the mounting public furor over the scandal, only once did Nixon even ask his close confidant what he knew about Watergate—in a phone conversation three days after the bungled burglary on June 17, 1972. Mitchell testified that in this conversation he merely apologized to the President for "not knowing what the hell had happened, and I should have kept a stronger hand on what the people were doing" at the Committee for the Re-Election of the President, which Mitchell then headed.

That was a frail peg on which to hang the contention that Nixon did not know. Obviously, the Mitchell version runs counter to the voluminous testimony by Dean, Mitchell's onetime protégé at the Justice Department and

the President's fired counsel. Dean had testified that beginning on Sept. 15, 1972, he and Nixon had discussed efforts to "contain" indictments to the seven low-level arrested Watergate wiretappers, offers of Executive clemency and payments of money to keep these men quiet, an attempt to influence a federal judge to delay Democratic civil suits until after Nixon's reelection, and ways to keep information from two impending congressional investigations.

Even accepting Mitchell's testimony completely, one still has to conclude that as the nation's highest law officer or as a close aide to Nixon, Mitchell 1) condoned serious illegal acts; 2) put the re-election of one man above the law and the Constitution; 3) arrogated to himself the huge responsibility of shielding the President from vital facts.

Unwise, unethical and perhaps even illegal, Mitchell's failure to inform the President about the criminal and deceitful activities of his associates was nevertheless based on a plausible rationale. To give Nixon such knowledge, Mitchell argued, would either make the President a party to the cover-up or would cause him "to lower the boom" on all those involved and thereby expose their activities. This would lead the public to blame Nixon for the wrongdoing of his associates. It would hinder his re-election chances—and this would be "absolutely unfair and unjustified."

Yet under critical questioning, Mitchell contended that he had made no parallel effort to persuade other knowledgeable officials to withhold similar facts from the President, and he denied taking any action to keep the arrested conspirators silent. Considering Mitchell's overriding concern for Nixon's re-election, his efforts to "keep the lid on," as he put it, seemed much too limited to ensure the President's insulation. To admit broader activities, of course, could make Mitchell—who was not testifying under any grant of immunity against criminal prosecution

—more susceptible to a charge of conspiracy to obstruct justice.

If Mitchell's account of his conversations with the President was correct, it raised troubling questions about Nixon's lack of inquisitiveness. The testimony led a highly skeptical committee chairman Sam J. Ervin Jr. to declare: "Well, if the cat hadn't any more curiosity than that, it would still be enjoying its nine lives—all of them." Three highly damaging interpretations of that lack of presidential curiosity seemed possible: 1) Nixon did not ask Mitchell because he too shared the Mitchell rationale that he would be better protected politically by a lack of knowledge, and thus he did not want to know; 2) he already knew from others which officials were involved, and thus he had no need to inquire; 3) he suspected Mitchell's involvement and did not want to take action directly against his good friend. Another possibility is more distasteful: Mitchell's testimony could be false, and the two may have discussed Watergate candidly all along.

Horror Story. Mitchell never wavered in his rejection of much of Dean's testimony. Later, John Ehrlichman and H.R. (Bob) Haldeman are also expected to deny Dean's claim that Nixon was part of the cover-up conspiracy. With the testimony last week of Richard A. Moore, special counsel to the President, which also conflicted in some ways with Dean's claims, Nixon's defenders are building their case—and the worst hours of testimony from the White House point of view may indeed be past. As Dean predicted, this phase of the hearings could end with his word being pitted on some points against that of as many as four other men. Thus while impeachment or the President's resignation remains unlikely, his political effectiveness depends largely on how most Americans judge the credibility of the committee's key witnesses.

Mitchell opened his 2½ days of testimony forcefully. Appearing under subpoena and against his will, he pre-

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