

# Nixon Aides Must Testify On Bugging

By Jim Mann and Carl Bernstein 9/3/72  
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U.S. District Judge Charles R. Richey ruled yesterday that President Nixon's former and present campaign managers, John N. Mitchell and Clark MacGregor, must submit to closed-door questioning by Democratic attorneys about the Watergate break-in.

Mitchell had walked out of a scheduled deposition on Friday to await a ruling by Richey. He must now reappear on Tuesday morning to give testimony, which will then be sealed. "If you will not assure me that he will be there," Richey told Mitchell's attorney, "I will enter an order to that effect."

The attorney promised the judge that Mitchell would attend. MacGregor is scheduled to appear later this month.

At the same time, Richey—after a hearing arising out of an invasion-of-privacy civil suit filed by the Democrats—granted a motion to block the Democrats from questioning the five men arrested June 17 inside the party headquarters.

Edward Bennett Williams, the Democrats' attorney, said later that he had expected the five men (whom he referred to in court as "hirelings") to invoke their Fifth Amendment rights against possible self-incrimination when they were questioned. If they had, the Democrats would not have gained much from taking their depositions.

There was still no indication yesterday when the testimony in the civil suit will be made public. Richey said yesterday, as he had previously, that he was seeking "a balancing of the rights of the accused and the rights of the public to know and of a free press."

The judge had originally ruled on Aug. 11 that the testimony of Mitchell and most

other persons besides the five arrested men would be made public, but he reversed himself on that point 10 days later and said all testimony in the case should be sealed because of the pending criminal investigation.

Nor was there any sign yesterday when a trial will be held in the civil case. Richey had suggested at one point that he might hold the civil trial before the Nov. 7 presidential election, but he did not mention this or set any trial date yesterday.

One of the attorneys in the case, William O. Bittman—who represents former White House consultant E. Howard Hunt Jr.—told Richey bluntly that even if he wanted to conduct the trial before the election, it would be impossible because of the numerous motions that need to be argued and depositions that need to be taken by both sides.

Bittman also told the judge that a criminal trial cannot possibly be held before the election, and suggested that public interest might be assuaged simply by the return of criminal indictments, which authorities say are expected this month.

But Richey retorted that an indictment "isn't going to bring the facts to light."

See WATERGATE, A4, Col. 1

## WATERGATE, From A1

"There has been more suspicion generated by this case than by any other in my lifetime," Richey told Bittman. "If you don't believe it, why would the President make a statement (about the Watergate case) in San Clemente? Why would the attorney general (Richard Kleindienst) make a statement? Why would I get so much mail?"

Most of the argument during the hearing yesterday focused on the extensive news coverage of the Watergate break-in and on its possible effects on any later criminal trial.

Attorney Henry B. Rothblatt, of New York City, who represents the five men arrested inside the Watergate, told the judge that the news coverage had "thoroughly prejudiced" the rights of the five men to impartial consideration by the grand jury and by a jury if they are tried. The presumption of innocence required in American jurisprudence "would be an absolute fiction in this case," Rothblatt argued.

But Richey noted that there had been extensive pretrial publicity in other cases, such as the recent trial of black activist Angela Davis on murder charges. Miss Davis was acquitted, Richey recalled.

Bittman—the man who successfully prosecuted Robert G. (Bobby) Baker on larceny, fraud and tax evasion charges—told the judge that "there has been more publicity in this case in the last two months than in any case in my knowledge, even in history."

Bittman said repeatedly that the country seems to be in a "frenzy" about the Watergate

case, and complained about the "atmosphere" that had developed.

In the lobby of the building where the depositions are being taken, Bittman told the judge, about 20 to 40 reporters "had me locked in an elevator for six or seven minutes one morning . . . They physically chase you down the street, hurling questions at you, throwing microphones in your face."

Bittman also noted that Kleindienst had publicly predicted there would be an indictment in the case, at a time when the grand jury was still



considering the evidence.

Bittman complained about news leaks relating to the investigations, telling the judge that when he had conducted the grand jury investigation of Baker several years ago, "there was virtually no publicity" even though the grand jury heard more than 200 witnesses over a one-year period.

He contended that there would be no harm in delaying the civil suit until after the grand jury investigation, which he termed "probably one of the most aggressive investigations of the last few years." Bittman said that Hunt, his wife and two children had all been called before the grand jury, and said he had information the grand jury had heard "many witnesses" within the past week.

But Williams, who was the defense attorney in the Baker case, argued that the public interest in the break-in was natural because "this is the first case in American history of political espionage."

Responding to Rothblatt's suggestions that the five arrested men might never be able to obtain a fair trial, Williams said, "It's a small price to pay for society if these hirelings are immunized from prosecution so that the facts in this case come out."

The Democrats, Williams asserted, now have evidence to show that "there was a specific wiretap of our clients over a long period of time." It was the first suggestion that the Democrats had their telephones tapped as well as their offices bugged.

Williams also contended that Mitchell had "walked out" that Mitchell had "walked out" such a fashion that "I continued to ask questions of an empty chair."

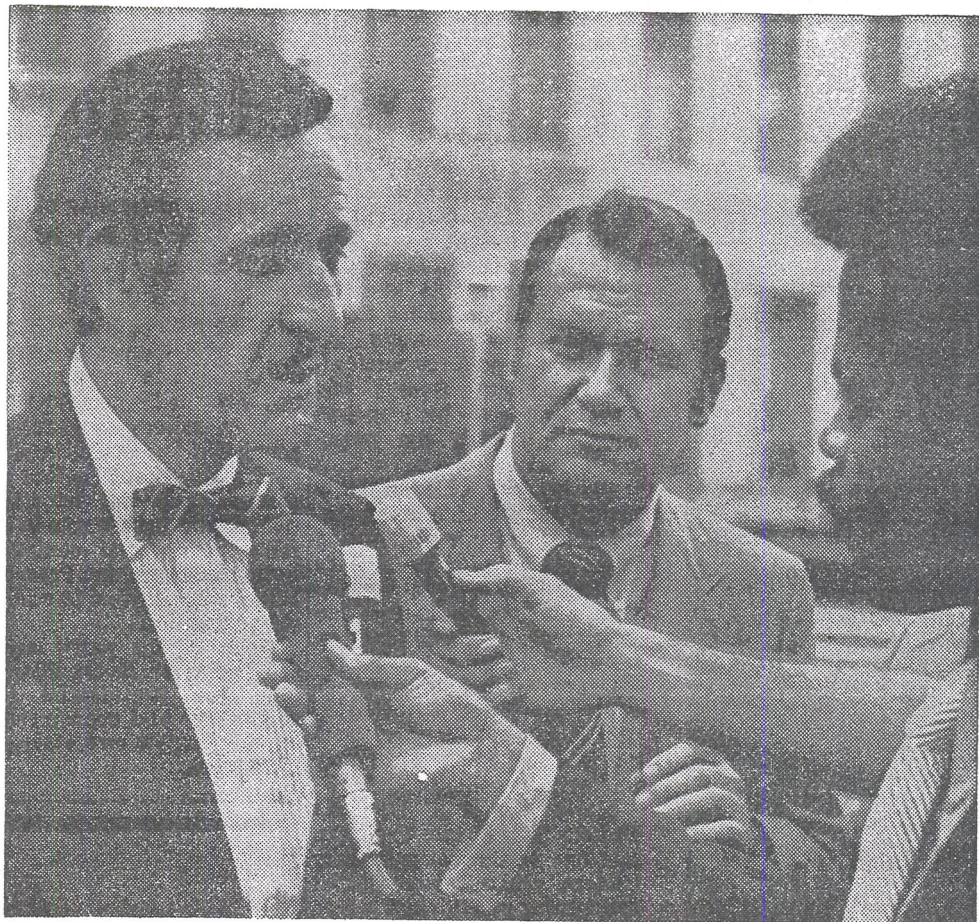
But Kenneth W. Parkinson, the attorney representing Mitchell, said that the deposition of Mitchell had been "recessed" rather than "terminated."

"We felt it would be inappropriate to proceed without some guidance," in view of

the motions filed by Rothblatt to stay the proceedings, Parkinson said.

Mitchell said later yesterday he welcomed the opportunity to continue his deposition and to "present the full facts as I know them to be . . ."

In a related matter, Law-



Associated Press

Henry Rothblatt, left, attorney for the five charged in the Watergate break-in, and William Bittman, attorney for Howard Hunt, talk to newsmen about ruling.

rence F. O'Brien, national director of Sen. George McGovern's presidential campaign, released the text of a letter he wrote to President Nixon on Friday, asking that the chief executive appoint a special prosecutor in the Watergate case.

O'Brien's letter charges that remarks made last week by the President and Attorney General Kleindienst "display an appalling lack of sensitivity to the issues at stake in the Watergate case," particularly in view of "a growing body of evidence (that) points to the direct involvement by persons in your administration or in your campaign organization."

Noting that Kleindienst promised in an interview with The Washington Post that the FBI's Watergate inquiry will be "the most extensive, thorough and comprehensive investigation since the assassination of President Kennedy," O'Brien wrote:

"It was precisely to achieve a totally open and forthright investigation that President

Johnson asked the Chief Justice of the United States, along with a panel of public officials of unimpeachable integrity, to conduct the official inquiry into the assassination of President Kennedy. It is precisely your refusal to appoint a special prosecutor to establish the facts of the present case that flies in the face of Mr. Kleindienst's promise. . . ."

During his press conference in San Clemente last week, President Nixon suggested that the appointment of a special prosecutor is unnecessary because six different investigations—including the FBI's—have been generated by the Watergate case.

But O'Brien asserted in his letter that the Justice Department is faced with a conflict of interest in investigating present and former officials of the Executive Branch and observed that three of the investigations cited by the President "are being conducted by



persons representing Republican groups directly implicated in the crime itself."

O'Brien identified those investigations as the ones being conducted by MacGregor; Maurice Stans, the finance director of the President's campaign, and John Dean, special counsel to the President. His letter added:

"The doubts concerning the Justice Department's handling of this case are seriously compounded by the Attorney General's statement that 'It's not a matter of looking into the conduct of government officials, but alleged criminal acts on the part of private individuals.' Does this mean that the government's chief law enforcement agency has, out of hand, decided to ignore the possibility that government officials may have been involved in the bugging of Democratic headquarters, even though nu-

merous leads point directly to official involvement?"

O'Brien also noted that the President told his press conference that "... no one in the White House staff, no one in this administration, presently employed, was involved in this very bizarre incident." Asked O'Brien:

"Does this mean that the past employees of the White House and your administration were involved in the affair? If so, is the Attorney General suggesting that these persons will be immune from

prosecution from the Justice Department?"

Meanwhile, GOP National Chairman Robert Dole vowed Friday to escalate the war of charges relating to campaign contributions.

Dole said he would distribute to the news media, for release Tuesday, "more announcements" alleging violations by the Democratic Party of the new campaign finance law. "If the Democrats want to play that game, we've got a whole list of violations on them," he said.