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Watergate 7 Can't Breathe Easy Yet

By Bruce Biossat 5/?/74 WASHINGTON (NEA)

Celebrations may be premature in the White House and other quarters over the acquittal in New York of former cabinet officers John Mitchell and Maurice Stans on charges related to the Robert Vesco "influence" case.

President Nixon's spokesmen and some analysts here are suggesting that because former White House counsel John Dean, admitted perjurer, was not believed by jurors in New York, it automatically weakens the prosecution's cases against Mitchell and other Nixon officials in the forthcoming Watergate trials — and perhaps diminishes impeachment prospects for the President.

Matters are not that simple. In the Watergate affair and related undertakings, two blatant crimes were committed: the burglary in June 1972, of the Democratic party headquarters and an earlier break-in at the California office of the psychiatrist of Daniel Ellsberg, who leaked the Pentagon papers in 1971.

In the Watergate burglary, trial already has been held and seven men convicted of direct or indirect participation. Trial of others in the Ellsberg break-in begins shortly in California.

The Watergate trials center on these hard events, on what knowledge various White House officials had of them, what if anything their role in them was, what if anything they did to try to cover up the White House connection with these established crimes.

In the Vesco matter, the real core of the case was the government's allegation that investment man Vesco paid $200,000 into Mr. Nixon's 1972 campaign fund in return for efforts by the accused to impede a Securities and Exchange Commission inquiry into his financial affairs.

But, whatever Dean, SEC cousel Bradford Cook (another admitted perjurer) and others said about meetings and telephone calls involving Stans and Mitchell and the Vesco case, the fact is that the SEC case was NOT impeded, that he himself had to respond to a subpoena, that he refused to testify under invocation of the Fifth and other constitutional amendments, that he later fled the country, that he is under indictment and could not set foot on American shores free of charges.

Thus, at its heart, the government's case in New York failed. There was no "hard event." The conspiracy charges against Mitchell and Stans take on potent meaning only if something happened. But it did not. As one experienced lawyer here told me: "Juries do not like to put people in jail simply for thinking about something."

Nor do perjury charges have the same force when they are not clearly connected with an established offense. Lying may not be admirable, yet — despite the "sworn oath" process — it is less important in a courtroom than many imagine when it is not associated with a proven larger breach of the law.

This reality is not wiped out by comments from some New York jurors that they dealt first with the perjury counts against the defendants. These counts had to seem less impressive to jurors who never were given convincing evidence that the alleged lies covered a real obstruction of justice.

That some New York jurors say they didn't believe Dean may not be crucial, either. The judge had warned them his testimony as an admitted perjurer was open to question. At least two jurors suggest Dean's impact was not great.

Furthermore, his role in the coming Watergate trials will not be the same. The Watergate prosecutors will be offering corroborative documentary evidence wherever they can. They are, of course, still seeking more.

Dean's place in the Vesco matter was tangential. In Watergate is it central. He was in the thick of conversations involving many others, some of whom have not "bought immunity" but have pleaded guilty. And these men were talking about real events — burglary, break-in, and attempted cover-up.

It may be a bit early for Mr. Nixon and such indicted aides as H.R. Haldeman and John Ehrlichman to break out the champagne.

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