

And You Are A Lawyer?

By Anthony Lewis

John Dean was being cross-examined, and defense counsel Peter Fleming Jr. showed the traditional scorn for a witness who has peached on his old chums. Wasn't Mr. Dean hoping to benefit from his "cooperation"? Mr. Fleming spoke the word with distaste.

Then Mr. Dean was led through his admitted crimes. Had he coached Jeb Stuart Magruder to give false Watergate testimony? He had.

"You suborned perjurious testimony from Mr. Magruder?"

"Yes, I did."

"And you are a lawyer?"

"That is correct."

Again a moment later, when the witness had admitted another role in the cover-up:

"And you were a lawyer?"

"That is correct."

It was all fair game, and Mr. Dean didn't seem to mind. He was calm and methodical, as in the Watergate hearings. He even managed a laugh now and then, and a big grin when he said no to Mr. Fleming's suggestion that though unemployed he drove "a Mercedes-Benz."

How well John Dean's credibility survived cross-examination will be for the jury to say. It must judge the particular charges of perjury and conspiracy against two former Cabinet members who are in this courtroom: John Mitchell, his features flaccid in disaster, and Maurice Stans, dapper still, American flag pin in his lapel. The jurors are quite properly admonished not to make this a trial of Watergate at large.

But the larger framework is inescapably there, and it was brought forcefully to mind by counsel's tone of indignation at the idea that a lawyer

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could have done what John Dean did. For of course he was not the only lawyer in the Nixon Administration who betrayed his profession.

The record of the lawyers around Richard Nixon is one of the most appalling aspects of his Presidency. There has been nothing like it in the history of our Government or our bar.

The Vice President of the United States, twice selected for the job by Mr. Nixon, resigned as an admitted felon and faces disbarment. Mr. Nixon's personal lawyer, Herbert Kalmbach, pleaded guilty to a felony. Mr. Kalmbach's partner, Frank DeMarco Jr., who worked on Nixon tax returns, admitted faking the date he notarized

a critical document. G. Gordon Liddy, counsel of Mr. Nixon's re-election committee and one-time White House aide, is in prison for the Watergate break-in. L. Patrick Gray 3d, Mr. Nixon's choice for the sensitive position of F.B.I. director, quit in disgrace after admitting that he had destroyed Watergate evidence.

Then there are the lawyers awaiting trial: Charles Colson, like Mr. Dean a former counsel to the President; John Ehrlichman, once Mr. Nixon's principal domestic adviser, and John Mitchell, the former Attorney General. They are presumed innocent of the several charges they face unless proved guilty. But there are other matters that indicate their notions of legal ethics and honor.

Mr. Colson prepared "enemies' lists" at the White House and suggested the idea of a punitive tax audit. Mr. Ehrlichman approached a judge about the job of F.B.I. director while he was trying the case of Daniel Ellsberg. Mr. Mitchell sent an aide up to warn some Supreme Court justices secretly that there would be grave consequences if they decided against his position in a pending case.

Law as an ethical ideal has been dirtied in the Nixon Administration more thoroughly than particular examples can convey. How can one measure what happens to a system of justice when an attorney general squelches a grand jury investigation of murder at Kent State on political grounds?

After the burglars were found at Watergate on June 17, 1972, John Mitchell's first public statement said they "were not operating either on our behalf or with our consent." He said he was "surprised and dismayed." Yet on June 20, Mr. Nixon has told us, Mr. Mitchell "expressed chagrin to me that the organization over which he had control could have gotten out of hand in this way."

What view of law does such behavior bespeak? The same view that John Mitchell's master evidences when he claims exemption from the rule of law, when he answers constitutional argument with preposterous fake history or political abuse. That is the view that law is an expression of power alone, without moral tradition or values, to be manipulated at will. It is the view of the cynic.

In Verdi's "Otello," Iago explains his total cynicism in a "credo" added to Shakespeare. "Justice," he says, "is a mocking player deceiving us in his face and in his heart. Everything in him is a lie: tears, kisses, looks, self-sacrifice, honor."

Some day someone will put the question to Richard Nixon: "And you are a lawyer?"