

WYOMING DECS 24 1974
MITCHELL PLEADS
LOYALTY TO NIXON

Lawyer Attributes Actions
in Watergate to Belief in
the Former President

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WASHINGTON, Dec. 23—

John N. Mitchell's chief defense lawyer told the jury today in his final argument at the Watergate cover-up trial that "everything Mr. Mitchell did in Watergate" he did "because he believed in and trusted, and he was completely loyal to," former President Richard M. Nixon.

The lawyer, William G. Hundley, asked the jury to acquit Mr. Mitchell, saying, "Suppose Mr. Nixon were a giant," a President such as "Jefferson, Lincoln, Eisenhower, as the late President Kennedy."

"Then would you think that what John Mitchell did to protect the President was so bad, was criminal?" he asked.

Lawyers for H. R. Haldeman and John D. Ehrlichman also cited Mr. Nixon in their closing arguments today.

'Critical Time' Cited

Frank Strickler, concluding this morning the summation that his co-counsel, John J. Wilson, began on Friday, sought to convince the jury that Mr. Haldeman was so busy working as chief of staff for Mr. Nixon that he did not have time to be involved in the cover-up.

"In this critical time, the Watergate matter was no more than a pimple on the mound of his other duties," Mr. Strickler said.

And this afternoon, after Mr. Strickler and then Mr. Hundley had finished, William S. Frates began his summation for Mr. Ehrlichman by telling the jury that there was a "missing person" at the trial—"the orchestra leader."

Mr. Frates has based Mr. Ehrlichman's defense on the contention that Mr. Nixon "deceived" and "lied to" and "misled" Mr. Ehrlichman. He sought unsuccessfully to compel Mr. Nixon's presence at the trial.

His meaning today was thus

Continued on Page 6, Column 2

Continued From Page 1, Col. 1

clear to all, and it led to an argument at the close of the day, out of the jury's presence, over the extent to which Mr. Ehrlichman would be allowed to develop his point when he resumed his summation Thursday, after a two-day recess for Christmas.

Judge John J. Sirica agreed to Mr. Frates's request to postpone decision until Thursday.

He said, though, that he did not think that the fact that Mr. Nixon had not come to court—or even that Mr. Nixon had been pardoned—made any difference.

"I don't think the fact that he is not here makes any difference," the judge said. He said that he did not think there was evidence that "would support an argument" that everyone was acting at the direct order of the President.

"And even if there were," he said, even if the President said "I want you to cover up, I want you to stonewall it," that doesn't make these people innocent."

If the defendants did what they are accused of, Judge Sirica said, "they went into it with their eyes open, they're over 21, some of them were lawyers."

Nixon Pardon Mentioned

The judge brought up President Ford's pardon of Mr. Nixon.

"Take the question of the pardon," he began. "It doesn't make any difference whether or not he was pardoned."

"It's too bad," he went on. Then he stopped, saying, with a smile, "Well, I better not say what I'm thinking."

He did say, however, "If they did it knowingly, it doesn't make any difference if the President was pardoned."

James F. Neal, the chief prosecutor, appeared to agree.

"I have no doubt that this jury is aware, perhaps the jury is aware of the pardon," he said. "I suspect the jury, whether they discuss it or not, will have it somewhere in the back of their mind."

But, he said, "That is one of the circumstances under which we live," he said that the pardon, like Mr. Nixon's absence from the trial, was irrelevant."

Mr. Nixon has been an issue throughout the trial. For one thing, Mr. Ehrlichman, Mr. Haldeman and Mr. Mitchell all wanted his testimony at the trial—either in person or deposition.

Judge Sirica, as he pointed out this afternoon, turned down the requests for depositions on two grounds—Mr. Nixon's ill health and the judge's view that the testimony Mr. Nixon could give would be of limited value.

This afternoon, both Mr. Strickler and Mr. Frates repeated their contention that they still considered Mr. Nixon's testimony essential to their

clients' defense.

Mr. Neal provided the basis for Mr. Frates's remark about the "orchestra leader" when he gave his summation last week.

He spoke about the lesser roles allegedly played by the two other defendants, Kenneth Wells Parkinson, a lawyer hired by the Nixon re-election committee to handle legal problems stemming from the Watergate break-in, and Robert C. Mardian, a former Assistant Attorney General and campaign official.

He reminded the jurors that in an orchestra, some players had major roles and some minor, but that all were a "necessary part" of the orchestra.

So, too, with Mr. Parkinson and Mr. Mardian in the cover-up, he said.

A White House Contrast

Mr. Neal also made other statements in his summation that were recited back to the jury today by the various defense counsel. He contrasted the White House of Richard M. Nixon with the White House of great Presidents such as Jefferson.

He said, too, that the defense strategy was to try to discredit the prosecution's chief witness, John W. Dean 3d, the former counsel to Mr. Nixon, who, he said, turned from

"good John Dean" to "mean John Dean" in the eyes of the conspirators when he began to cooperate with the prosecution.

Mr. Hundley began his summation by reminding the jurors of all the conversations they had heard on the tapes, in which various officials sought to get Mr. Mitchell to step forward and take the blame for Watergate.

"While the maestro at the White House might have been orchestrating some pretty strong music, it's clear that John Mitchell was not one of the boys on that band," he said.

Like Mr. Frates later, he attacked the credibility of Mr. Dean.

And, in his final words to the jury, he returned to Mr. Neal's remarks about the White House in other times. It was the most emotional part of his summation, given in a sad and somewhat beseeching tone, and it went as follows:

"Everything that Mr. Mitchell did in Watergate, he did not protect himself, to help himself, because he didn't do anything wrong, but because he believed in and trusted, and he was completely loyal to, President Nixon."

"Now, you know, you and I might not have the same belief in that particular point. But I think we all understand and respect the principle of loyalty. I know I do."

"Ask yourself, suppose Mr. Nixon were a giant, as Mr. Neal says, a Jefferson, Lincoln,

Eisenhower, as the late President Kennedy or his son

"Then would you think that what John Mitchell did to protect the President was so bad, was criminal?"

"Because I submit on the evidence—you know—the charges have just not been proven."

Judge Is Displeased

Mr. Wilson, Mr. Haldeman's chief counsel, spent 2 hours 35 minutes in his summation to the jury last Friday afternoon, and Mr. Strickler was to speak for 30 minutes today, to cover whatever points Mr. Wilson had left out.

Instead—to Judge Sirica's great displeasure, as he indicated after Mr. Strickler finished—the attorney spoke for about an hour. Also, one of his main points was a repetition of Mr. Wilson's central point, the attack on Mr. Dean.

Mr. Strickler said that Mr. Dean had tried to create "an aura" of "involvement" in Watergate about the meeting between Mr. Dean, Mr. Haldeman and Mr. Nixon on Sept. 15, 1972—the meeting in which Mr. Nixon congratulated Mr. Dean on the fact that the indictments returned that day by the first Watergate grand jury named only the five burglars and the two next-in-command to the burglars.

Mr. Strickler said that Mr. Dean had originally testified that a number of subjects were discussed at the Sept. 15 meeting, but that the tape recording of the meeting did not bear out everything that the one-time White House counsel said.

"Dean was 'mean John Dean'" when he testified about the Sept. 15 meeting, Mr. Strickler said, emphasizing the word "was."

'Not a Simple Job'

Mr. Strickler spoke about Mr. Haldeman's hectic life at the White House, hoping, perhaps, to show that he had been too busy to be involved in the Watergate cover-up.

"This is not a simple job," he said of the post of White House chief of staff. "He was with the President seven days a week, 52 weeks a year, year in and year out."

"From what you have heard here," he said a moment later, "you may fall into the belief" that Watergate was the only concern at the White House. But, he said, that is inaccurate.

"We had, you may recall, the Vietnam war was winding down in 1972," he said. Negotiations were going on, and "Mr. Haldeman was right at the apex."