

Text of Mitchell's Letter to the A.B.A.

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WASHINGTON, Oct. 21—
Following is the text of a letter, released by the White House tonight, from Attorney General John N. Mitchell to Leon Jaworski, president of the American Bar Association, and Lawrence E. Walsh, chairman of the Standing Judiciary of the American Bar Association:

In my letter of July 23, 1970, I advised you of my decision to furnish the A.B.A.'s Standing Committee on Federal Judiciary the names of persons I may consider recommending to the President for nomination to the Supreme Court.

This was in response to your committee's offer to conduct an examination into the professional qualifications of each such person and report its findings to me.

In our joint consideration of this plan, we both were concerned as to whether the confidentiality of our communications could be protected.

The events of the past week have made it clear that our concern was well founded, and I can only conclude that there is no practical way to avoid unauthorized disclosure of the names submitted and the advice of your committee with respect thereto despite the best effort of the committee.

Premature publication of information relating to our exchanges can cause a number of unfortunate side effects, and it can be particularly unfair to a person whose name may have been referred to your committee but who may not be nominated to the Court. In such case there will always be speculation

that his or her fellow lawyers found something negative in the subject's character or professional qualifications, and there is no way that the subject can counteract it.

Like you, I hoped that the new procedure would be useful and productive. However, under the circumstances, I have concluded that the only fair and proper course is to resume the long-standing practice of submitting the Attorney General's recommendations directly to the President.

The traditional confirmation procedure, of course, provides a full opportunity for the presentation of information and evaluation by your committee and all other interested persons. This post-nomination procedure, moreover, is entirely fair to a nominee, who understands when he accepts the nomination that his qualifications will be subject to searching public scrutiny by the Judiciary Committee of the United States Senate.

I remain deeply grateful to you for the wholehearted cooperation which you have always given to this department. We can both take satisfaction in the fact that we undertook a well intentioned experiment which proved impractical for reasons beyond our control.

Yours sincerely,
John.