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Mitchell Testifies About Taps

NEW YORK, Nov. 9 (AP)—Former U.S. Attorney General John N. Mitchell, returning to the courtroom where he was acquitted last spring, testified today as a government witness about wiretaps in a 1971 narcotics probe.

He said the Justice Department sought approval for the taps from the Court of Appeals here because it suspected "leaks" in Brooklyn District Court.

Mitchell, standing trial with four other defendants in the Watergate cover-up in Washington, testified in Manhattan federal court where he and former Commerce Secretary Maurice H. Stans were acquitted last April of perjury, conspiracy and obstruction of justice.

In contrast to the standing-room-only scene of his trial last spring, the jury box was empty and 25 spectators were on hand as Mitchell explained the Justice Department's system for approving wiretaps during his time as Attorney General, 1969-72. He estimated that in all he had authorized about 500 eavesdropping requests.

Mitchell was cross-examined by lawyers for narcotics conspirators convicted May 1, 1972, including Eldin Lee (Big Al) Bynum, of Brooklyn, who is serving 30 years.

In the hearing before Judge Milton Pollack, the convicts are challenging the legality of the wiretaps and microphones used in February and March, 1971, in a Brooklyn apartment occupied by a friend of Bynum.

As he testified, Mitchell gave brief, lawyer-like answers, occasionally smiling, sometimes rocking in the witness chair and fingering the spectacles he used to look at documents.

At the lunch recess a defense lawyer told the judge that Mitchell might be needed later.

"Are you planning to stay in town a couple of hours?" Pollack asked Mitchell, who had stepped down and was at the door.

The witness smiled and replied, "It looks like it, doesn't it?"

However, Mitchell was not recalled. Pollack told the lawyers to submit legal briefs within three or four weeks.

Mitchell said that at the time the Brooklyn wiretaps were approved he had delegated the power of approval to his executive assistant, Sol Lindenbaum. The practice was stopped in November, 1971, he said, after its validity was questioned. From then on, Mitchell said he handled all applications himself.

Assistant U.S. Attorney W. Cullen Macdonald produced a memorandum to Mitchell from Lidenbaum, dated Jan. 26, 1971, describing Bynum as "engaged in large-scale operations involving payoffs to New York City police and to Bureau of Narcotics and Dangerous Drugs personnel."

Lidenbaum told Mitchell the application should be made to the Court of Appeals, bypassing Brooklyn federal court, because "Bynum is so big and has apparently corrupted so many people in Brooklyn."

Eventually, a court of appeals judge telephoned U.S. District Judge Anthony J. Travia, who signed the eavesdrop order.