

# The Inquest Begins: Getting Closer to Nixon

*The defendants unlawfully, willfully, and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States . . . to defraud the United States and agencies thereof . . . interfering with and obstructing lawful governmental functions by deceit, craft, trickery and means that are dishonest.*

**T**HE words of accusation were almost brutal in their bluntness. But now they were hurled, not by some unnamed news source or unspecified Government investigator, but by a federal grand jury in the cold language of criminal indictments. They were directed not at some shadowy spooks and wiretappers with unfamiliar names, but at two of the most prominent and influential former members of Richard Nixon's Administration: Attorney General John N. Mitchell and Commerce Secretary Maurice H. Stans.

Thus, in a separate case, but one clearly related to Watergate, the first high officials stood formally accused. So far the criminal charges against them did not directly bear on Watergate, but they obviously reflected the amorality and the motives behind the wiretap and the many connecting offenses. Obviously also, the indictments were only the beginning of a long inquest that would produce many more charges.

Mitchell and Stans became the first former Cabinet officials accused of a crime since the Teapot Dome oilfield-leasing scandal of 50 years ago.\* They

\*The only other former Cabinet members ever indicted for a crime were Secretary of Interior Albert B. Fall and Attorney General Harry M. Daugherty, both because of Teapot Dome.

stand charged with being so eager to secure campaign contributions for the re-election of President Nixon that they used their great influence to help a financier, Robert L. Vesco, in his deep troubles with the Government. Then they tried repeatedly to conceal the fact that Vesco had contributed \$200,000 in cash to the Nixon re-election committee (see box page 18).

Formally, the indictments charge Mitchell and Stans with conspiring to obstruct justice, conspiring to defraud the U.S., and perjury. Each man is accused of lying six times to the grand jury, which had been meeting in Manhattan for three months on the Vesco matter. Announcing the indictments in a halting voice, U.S. Attorney Whitney North Seymour Jr., a devoted Republican who was appointed by Nixon when Mitchell headed the Justice Department, declared: "I regard this as a sad day in a series of sad days for those concerned about integrity in the administration of justice."

**Crossfire.** Indeed it was. More than any other person in Nixon's official family, Mitchell had symbolized the Administration's dedication to stern law enforcement and its opposition to any coddling of criminals by soft judges. Nixon's most intimate confidant as a law partner and campaign manager, he was the man Nixon had selected to become Attorney General after declaring to cheers in his 1968 speech accepting the Republican Party's presidential nomination: "If we are going to restore order and respect for law in this country, there is one place we are going to begin: we are going to have a new Attorney General."

Even more than Mitchell, Maurice Stans represented the inner establishment of the Republican Party, having served as a major G.O.P. link with corporations and businessmen back through the Eisenhower Administration, in which he was Director of the Budget. Stans became Nixon's Commerce Secretary in 1969 and left in February 1972 to become the chief fund raiser for the Nixon campaign.

The indictments are, of course, yet to be tested under the crossfire of questioning in courts. Both men issued sharp denials of any wrongdoing and expressed confidence that the judicial process will clear them of all guilt. But the charges (which carry possible, although highly unlikely sentences of up to 50 years in prison) may be only the first criminal proceedings against the two former Cabinet members.

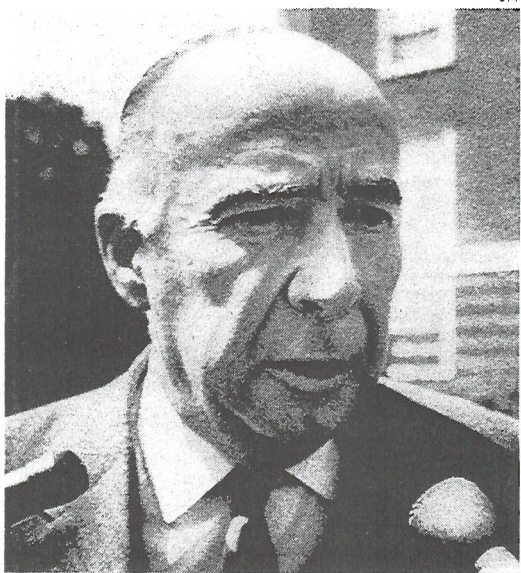
Both Mitchell and Stans have been deeply implicated in the Watergate scandal itself and are under investigation by the federal grand jury in Washington that is probing the affair. Stans

was the Nixon moneyman whose bountiful safe financed the actual burglary and wiretapping of Democratic National Headquarters in the Watergate complex last June. It may also have furnished the conspirators with hush money to cover up White House involvement in that illegal eavesdropping. Mitchell, who has reversed earlier denials and admitted attending meetings at which the wiretapping was proposed, will almost certainly be indicted by the Washington jury.

Mitchell and Stans will also be called before the Senate Select Committee on Presidential Campaign Activities, headed by North Carolina Senator Sam Ervin Jr., which is scheduled to begin its televised public hearings this Thursday. They may well turn out to be not only one of the most absorbing and significant television series ever, but also one of the most fateful political dramas in U.S. history.

The week before the hearings brought an unrelenting succession of new reports and revelations which the committee will have to consider. Among the most sensational:

► L. Patrick Gray, Nixon's personally chosen acting FBI director, asserts that he warned the President just three weeks after the arrests at the Watergate that some of his aides were interfering with a full investigation into the wiretapping and thus, in effect, were already starting a cover-up operation. Gray made this claim last week to Senator Lowell Weicker Jr., a member of the Ervin committee, and repeated it in a milder version to the committee staff. If it is true, Nixon not only disregarded news of White House involvement for some ten months, as he has conceded,

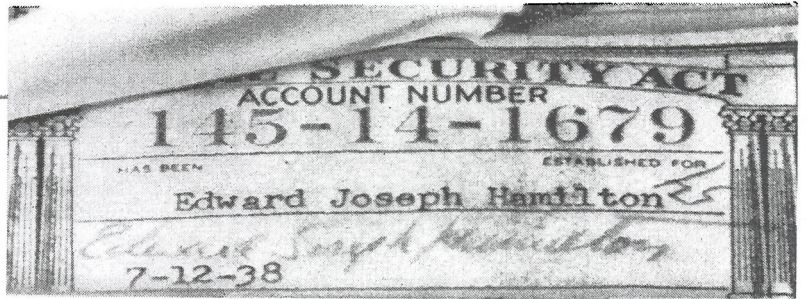
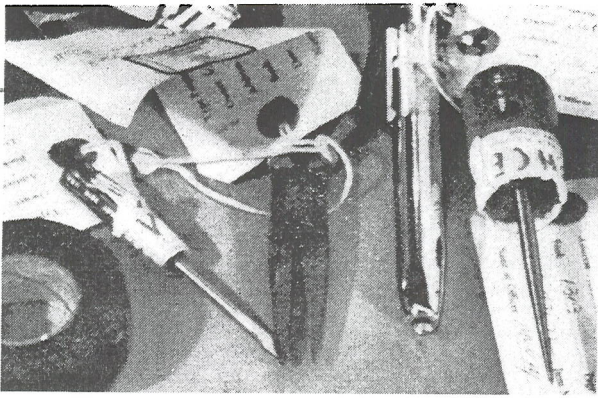


**MITCHELL AFTER INDICTMENT**  
*Justice obstructed.*



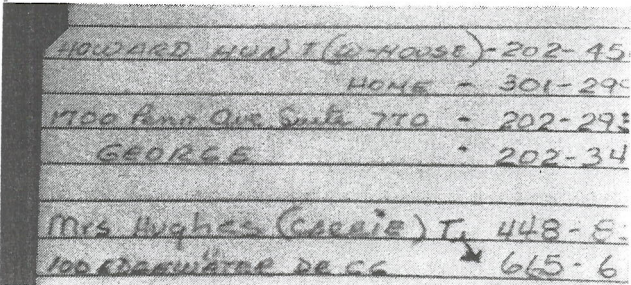
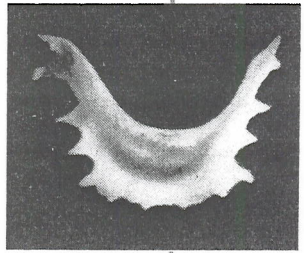
**FORMER SECRETARY STANS**  
*Money talked.*





## The Tools of Watergate

THE arrested Watergate burglars were well equipped with spying and break-in gear, as shown by the tools and papers confiscated from them by Washington police. Among the items seized, counterclockwise from lower right: metal mouthpiece that disguises the voice when speaking on the telephone; Social Security card with phony name, used by Conspirator E. Howard Hunt Jr.; tape, screwdriver, pliers, flashlight and other burglar's tools. Lower left: phone numbers found on a Watergate conspirator listing Hunt's White House number. This was one of the primary clues that led police to trace the break-in plot to the White House.



but he also ignored the warning of the nation's highest police official.

► John W. Dean III, the President's counsel who was abruptly fired by Nixon on April 30, contends that the President asked him to sign a resignation and a confession that he, Dean, alone had tried to conceal the White House involvement in Watergate. Dean refused. Moreover, he insists that he never gave Nixon a report that cleared all of his aides of involvement. That would make an outright lie of Nixon's press-conference statement of last Aug. 29 that Dean's investigation had produced such a conclusion—unless someone above Dean had misled the President.

► Convicted Wiretapper James W. McCord Jr. contends that unnamed high officials urged that the defendants in the Watergate wiretapping case claim that the operation was directed and authorized by the Central Intelligence Agency. Attorneys handling the case felt that top CIA officials would maintain "a discreet silence" and would go along with this defense.

► Before the Government's case against Pentagon Papers Defendants Daniel Ellsberg and Anthony Russo was thrown out of court (see page 28), unnamed Justice Department officials said that Nixon twice in the past three weeks had tried to keep the department from informing Judge William Matthew Byrne Jr. that the office of Ellsberg's psychiatrist had been broken into by covert agents operating on orders from people in the White House. Nixon reluctantly agreed to pass along this information only after high Justice Department officials repeatedly advised him that the Los Angeles court had every right to know.

► TIME has traced the missing records of FBI wiretaps, including the interception of a Daniel Ellsberg conversation in 1971 that contributed to the dismissal of the Pentagon papers case.

On the orders of Robert C. Mardian, then an Assistant Attorney General, the records were taken from the files of FBI Chief J. Edgar Hoover by one of his deputies, William Sullivan, and turned over to Mardian. They went from Mardian to the White House office of John Ehrlichman, chief domestic affairs adviser. Whether they were destroyed, which would be a criminal offense, or are still in the White House is not known. TIME also learned that summaries of the conversations picked up by these taps, which were on the telephones of some newsmen and Administration officials, were sent by the FBI to the office of H.R. Haldeman, White House chief of staff.

► The Watergate contamination spread ever more widely as it was revealed that—in response to requests from White House officials—the CIA and the State Department had helped Convicted Wiretapper E. Howard Hunt Jr. carry out covert activities. These involved either the investigation of Ellsberg or the fabrication of cables falsely implicating President John Kennedy in the assassination of South Viet Nam's President Ngo Dinh Diem in 1963.

To sift these and other conflicting claims of guilt, innocence and complicity, the Ervin committee intends to begin in a low-key, methodical manner. The first witness will be Robert C. Odle Jr., Director of Administration for the Nixon re-election committee, who will describe how the committee was set up and operated. Next will be one of the policemen who discovered the five men hiding sheepishly behind a desk in an office at Democratic headquarters at 2 a.m. on June 17. Then some of the convicted conspirators will tell their now-familiar stories of how and why they bugged, burgled and bungled. Another early witness will be Sally Harmony, secretary to Convicted Wiretapper G. Gordon Liddy. She will tell about

typing summaries of the illegally intercepted Democratic conversations.

The most compelling early witness will be Convicted Conspirator McCord. His sensational charges that high officials had ordered the wiretapping, then paid the arrested men to plead guilty and keep quiet, helped break the case wide open. Some of his charges have since been at least partly corroborated by others who have testified to the grand jury or Senate investigators.

Probably the next most volatile early witness will be Hugh Sloan Jr., who was treasurer of the Nixon re-election committee at the time of the wiretapping. He has claimed that at least two higher officials urged him to lie to the grand jury about payments to the Watergate conspirators. The officials, said Sloan in a sworn deposition, were Jeb Stuart Magruder, Nixon's deputy campaign manager, and Frederick LaRue, an assistant at the re-election committee. This happened within a few weeks of the Watergate arrests, Sloan claims. When he tried to warn John Ehrlichman about this, the President's adviser told him that he did not want to hear about it. Sloan says he also tried to tell Dwight Chapin, then Nixon's appointments secretary, but Chapin brushed him off, saying: "The important thing is to protect the President."

Perhaps weeks later will come the potentially explosive testimony of fired Counsel John Dean—if arrangements can be made by the Ervin committee to grant him some kind of immunity against prosecution in return for his story. Dean insists that he can directly implicate Nixon in the massive cover-up that followed the Watergate break-in. That may put such later and climactic witnesses as ousted White House Aides Ehrlichman and Haldeman even more on the defensive. Also late in the order of witnesses are Stans and Mitchell.

The hearings, which will be held in



Senate Caucus Room 318, the chamber in which the celebrated Army-McCarthy hearings unfolded in 1954, will be historic because they involve the very viability of the President as a national leader. More than all of the rather limited and ponderous movements of the courts, the wide-ranging freedom of the Senate hearings can make or break the President and his men. The Ervin committee is concerned not solely with criminal activity but also with the broader questions of protecting presidential elections against deceitful and unethical practices.

While the Army-McCarthy hearings all but destroyed the wild-swinging Wisconsin Senator—as much by the exposure of his whining, bullying manner (“Point of order, point of order”) as by the revelation of his methods—the Ervin hearings can crucially affect the whole Nixon Administration. Ervin has suggested that he might even summon the President himself to testify, if need be, to get at the truth. With typical understatement, Ervin says: “I know of no law that says that the President is exempt from the duties which devolve on other citizens.”

What clearly is shaping up is an epic test of credibility in which the central issue will be whether Nixon can politically survive. The President's closest aides, Ehrlichman and Haldeman, will almost certainly proclaim Nixon's total ignorance of any Watergate cover-up. In the process, they will be insisting

upon their own innocence as well. Standing against them will be John Dean, who will argue that the other three are still conspiring to avoid disclosure of the full truth.

Dean's word, of course, must be treated with caution, since his personal stake is high. He is maneuvering for the broadest kind of immunity against prosecution, and may be trying to favorably influence any later criminal trial of his own. Yet it seems unlikely that Dean would enter into a showdown with the President without considerable ammunition. Indeed, his recent record for revealing unpleasant truths is impressive.

“We Can't.” It was Dean who first told Justice Department prosecutors in the Watergate case that there had been a White House-directed burglary of psychiatric records in the Ellsberg case. It also was Dean who informed the prosecutors that there had been meetings in Attorney General Mitchell's office at which plans for the Watergate bugging were discussed. First mentioned by McCord, these meetings were mere hearsay until Dean confirmed that he had been present at them, along with Mitchell, Liddy and Magruder. Dean's revelations caused Magruder to admit that he had lied to the grand jury.

A close associate of Dean's has given TIME the following account of Dean's position in the White House infighting over the scandal. Some of the points have also been backed by his lawyers. Their story:

Dean never made an investigation for the President that showed that no one then “presently employed” by the White House had been involved in Watergate, as Nixon announced on Aug. 29. Dean can produce his office logs for the period. He and his attractive wife Maureen have been working into the nights to gather this evidence on Dean's daily office activities. The records give no indication that he filed such a report and will substantiate Dean's claim that he did not even meet with Nixon between the Watergate arrests and the President's statement.

In March Dean was called into Nixon's office, where the President gave him two papers and asked him to sign them. One was a virtual confession that Dean alone in the White House had concealed facts in the Watergate case. The other was his resignation.

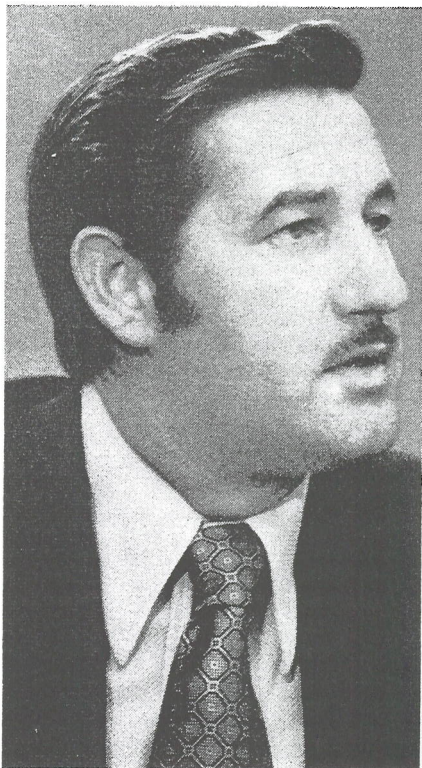
“What about Ehrlichman and Haldeman?” Dean asked the President.

“They have given verbal assurance [that they were not part of a cover-up],” Nixon replied.

Dean then said that he would not sign any such papers unless the other two aides would do so as well. Dean told the President: “We can't do this. The whole truth has to get out.”

The President then directed Dean to draft his own letter of resignation and show it to him. Dean, still resisting, later returned to Nixon's office and said he could not do this. “Nixon was mad,” Dean claims. The President told

## It Started with \$200,000 in a Worn Briefcase



BIG CONTRIBUTOR ROBERT L. VESCO

THE accusations raised in the grand jury indictments of John Mitchell and Maurice Stans—along with a notorious financial freebooter and a leading New Jersey Republican—form a sleazy story that might well give pause to even the most hardened ward heeler.

At the heart of the matter is the secret Nixon campaign contribution of \$200,000 in cash that was paid to Stans by Financier Robert L. Vesco. The indictments assert that Mitchell and Stans reciprocated by aiding Vesco in his unsuccessful efforts to quash a Securities and Exchange Commission probe into his “looting” of a huge mutual-fund complex. The go-between was Harry L. Sears, head of Nixon's re-election drive in New Jersey, onetime Republican majority leader in the state's senate and a director of International Controls Corp., which Vesco dominated.

Vesco early in 1971 also gained control of International Overseas Services, the mutual-fund complex founded by Bernard Cornfeld that marketed its shares mostly to middle-income Europeans. In one of the largest security-fraud suits ever brought by the SEC, Vesco and his associates were charged last Nov. 27 with selling off \$224 million worth of I.O.S.-held stocks—caus-

ing grave losses to investors—and salting the money away in banks and dummy companies that the accused controlled. Last week's indictments specify the following:

In mid-1971 Harry Sears first went to Mitchell for help in impeding the SEC investigation. Sears approached Mitchell again in January 1972 to ask the Attorney General to arrange a meeting for him with SEC Chairman William Casey to discuss the case. On March 8, 1972 Vesco met with Stans and offered to donate as much as \$500,000 to the Committee for the Re-Election of the President if Stans and Mitchell would help in restraining the SEC. Stans requested that Vesco make a \$250,000 contribution—in cash.

Vesco drew the money out of a bank in the Bahamas (probably some of the cash he had stashed there after selling I.O.S. stocks belonging to trusting investors). He did not get around to handing it over until three days after a new and much tougher campaign-contribution law went into effect, requiring the public reporting of any donation larger than \$100.

On the morning of April 10 Sears flew from New York City to Washing-



Dean that the young counsel must "shoulder the burden" and that there was to be no full "airing." Moreover, Haldeman and Ehrlichman would stay on his staff. It was then that Dean decided that the other three—Nixon, Haldeman and Ehrlichman—were trying to pin the entire cover-up on him. He issued his celebrated statement that he did not intend to become "a scapegoat"—and went to the Justice Department to talk to the prosecutors.

Dean also took a more concrete step to protect himself before he was fired: he carried away nine documents from his files and placed them in a safe deposit box in Virginia's Alexandria National Bank, not far from where he lives. He gave the keys to Judge John J. Sirica, who had presided over the original Watergate trial and been the main force in pushing the case beyond the low-level convictions.

Last week the White House filed a motion with Judge Sirica to have those documents returned. "We want the originals back. They're our papers, goddammit," said a White House official. He added: "If any one thinks that we're going to do anything sneaky, let the court hang on to a copy." Judge Sirica scheduled a hearing for this week on what to do with the Dean documents.

Yet at the same time, other Justice Department authorities were knocking down the importance of those papers. The *New York Times* quoted one such official as saying that the papers are na-



SALLY HARMONY



ROBERT ODLE

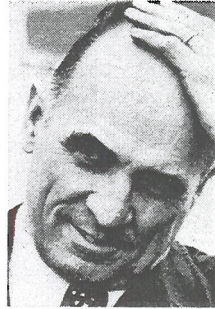


HUGH SLOAN JR.

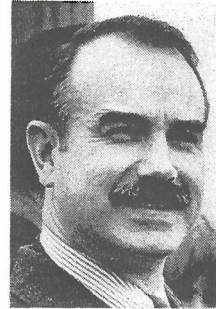
tional security documents that "have nothing to do with anything." Another told the *Times* that Dean cannot implicate the President in any way, adding: "We have debriefed Dean from A to Z."

Partly in response, Dean contended in a statement that unspecified persons were waging a campaign "to discredit me personally in the hope of discrediting my testimony. There is a concerted effort to 'get me.'"

All this is part of a complex battle over immunity. Dean is demanding a full-immunity "bath," under which he would tell everything he knows in return for the assurance that he cannot be prosecuted in any way. The Ervin committee is seeking a more limited "use" immunity, under which he could



JAMES McCORD



G. GORDON LIDDY



E. HOWARD HUNT JR.

be prosecuted later, but Justice Department attorneys would have to show that any evidence they used against Dean was derived independently of his public testimony. The department is resisting any immunity at all for Dean. Nixon last week reversed his own blanket decree against immunity in the case, so any refusal to accommodate Dean is no longer

ton, carrying a worn brown briefcase loosely packed with \$200,000 in \$100 bills. The cash was turned over to Stans in his office at the Nixon committee, and he placed it in his safe (the same safe from which \$235,000 was later disbursed to G. Gordon Liddy, a convicted Watergate wiretapper). Vesco also gave \$50,000 by check, which was publicly reported. Later that very day, Mitchell arranged a meeting for Sears with Casey and G. Bradford Cook, who was then SEC general counsel and recently succeeded Casey as the commission's chairman. The express purpose was to discuss the commission's investigation of Vesco's company. Stans never reported the \$200,000 donation to the General Accounting Office as he was required to do under the law.

Indeed the indictments charge that Stans took great pains to cover up the contribution. In the course of its investigations of Vesco the SEC began looking into why he had made the big withdrawal from the Bahamian bank. Stans went to Cook and persuaded him to delete from the draft of the SEC complaint against Vesco any reference to the money—and how it was used to help the Republican election campaign.

Then, according to the indictments, Mitchell got Presidential Counsel John W. Dean III to ask Casey to postpone subpoenaing employees of Internation-

al Controls Corp. "to prevent or delay disclosure by them of facts relating to the secret Vesco contribution." Despite denials of wrongdoing by Cook and Casey, who is now Under Secretary of State for Economic Affairs, there is a chance that they too will face legal charges for the cozy manner in which they handled the case.

The indictments say that by October, as the presidential election neared, Vesco was threatening that he would disclose the secret payment unless stiffer action was taken to delay or halt the SEC inquiry. Sears phoned Mitchell to pass on the threat. In November, presumably just before the election, Vesco sent a memorandum to Donald Nixon, the President's brother.\* In the memo, Vesco again warned that he would reveal the details of the contribution unless all the SEC charges were dropped.

Finally, on Jan. 31, almost three months after Nixon's victory and two months after the SEC issued its fraud charges against Vesco, the re-election committee returned the money. Perhaps by coincidence, the *Washington Star-News* reported five days before that the Government had begun an investiga-

\*Vesco had a penchant for attracting people close to President Nixon. Donald F. Nixon, the President's nephew, has been Vesco's administrative assistant since 1971.

tion into the donation. The probe began when an unidentified witness came forward in Manhattan earlier in January and volunteered to U.S. Attorney Whitney North Seymour Jr. that he would tell about the transaction.

In their testimony before the grand jury, charge the indictments, Mitchell and Stans perjured themselves repeatedly. Mitchell, for example, denied that he got a memo from Sears asking to see Casey in January 1972, that he received a phone call from Sears warning that Vesco was threatening to talk, or that he asked Dean to see Casey about postponing subpoenas. Stans denied to the grand jury that he discussed with Vesco securing Mitchell's help, that he asked Vesco specifically for a cash donation, or that he discussed Vesco's case with him when the money was delivered. Last week both Mitchell and Stans insisted that they were innocent.

As for Vesco, he has defied an order to appear before the grand jury, and a bench warrant was issued for his arrest. The SEC fraud suit is now before the courts; it seeks to halt further plundering from Investors Overseas Services. If this civil action is successful, the decision could well become the basis for a criminal suit against Vesco. Meanwhile, he is believed to be living in comfort in Costa Rica (see BUSINESS) and planning to become a citizen of that country.



## THE NATION

the President's sole responsibility.

The angry argument reaches far beyond Dean. "There won't be any criminal cases if the witnesses go on TV and reel off their grand jury testimony," contends a Justice Department official. He argues that such a wide dissemination of testimony would allow other defendants to claim that their criminal cases had been hopelessly prejudiced. It would also enable them to discover much of what probable accusing witnesses would say about them—and to prepare their defenses.

Senator Ervin, on the other hand, argues that "it's far more important to get the truth than to send someone to jail." He complains of the prosecutors: "They have had the case since last summer, and if they can't get enough evidence to convict somebody by this time, they ought to go out of business."

That may be unfair. There were indications last week that the Watergate grand jury is now speeding up its work, possibly in an attempt to indict the most important officials before they can give

last week from a most unlikely source: L. Patrick Gray. At the Senate hearings on his nomination as FBI director, Gray had conceded somewhat grudgingly that Dean had "probably lied" to the FBI in its Watergate investigations. Yet Gray told Ervin committee investigators that Nixon had to know that his aides were trying to cover up White House involvement because Gray had warned him about it last July. Gray's story, as reported by TIME Correspondent Stanley Cloud:

Within days of the arrests at the Watergate, Gray learned from his own agents that two of the arrested men, Hunt and McCord, had once worked for the CIA and that McCord was still employed by a Washington firm that had been used as a CIA front. Some of the other burglars also were found to have had CIA connections. The CIA made approaches to Gray in an effort to keep the FBI agents away from the question of CIA and White House involvement in Watergate.

After his agents complained about

tur: "Oh, Pat, you just keep pursuing your investigation aggressively. You're doing a fine job, Pat. Keep it up."

Gray softened the story considerably, however, when he was questioned by the staff of the Ervin committee. He said he was merely "confused" about the White House involvement in the investigation. The difference in the two stories was not explained.

There was other dismaying evidence that high White House aides had indeed been using the CIA for improper, if not self-protective purposes. The revelation two weeks ago that two of the White House-Watergate covert agents, G. Gordon Liddy and E. Howard Hunt, had been equipped and aided by the CIA before burglarizing the office of Daniel Ellsberg's Los Angeles psychiatrist was confirmed last week by outgoing CIA Director James Schlesinger. As subcommittees in the House and Senate began investigating this apparent breach of the CIA's role, which by law is confined to foreign activities, Schlesinger testified that a telephone call from Ehrlichman had persuaded the CIA to cooperate with the burglars and to prepare a psychiatric profile on Ellsberg. Schlesinger described these acts as "ill-advised" and "beyond the normal activities of the agency." He said that steps have been taken to make sure they do not happen again.

**Trigger.** That may not satisfy the angry legislators. Schlesinger insisted that the CIA had no knowledge that the White House spooks were planning a domestic burglary, and that the agency had belatedly moved to cut off aid to them once the nature of their activities became clearer. But this unquestioned acquiescence to a White House phone call by the CIA seemed shocking. It was also a flagrant abuse of the agency by presidential aides. It raised—but left unanswered—the vexing question of just what other secret activities the CIA has conducted within the U.S.

This automatic response to any White House request was also demonstrated by the State Department. In August 1971 it cooperated with Hunt after receiving a memo from the White House and two calls from David Young, an Ehrlichman assistant on detached service from Henry Kissinger's National Security Council staff. Young telephoned William B. Macomber Jr., then a Deputy Under Secretary of State. Macomber granted Hunt full access to the most secret "back-channel" communications (meaning only the addressee and sender should see them) between the State Department and its embassy in Saigon for a period in 1963. Hunt copied 240 of these classified cables.

According to sworn testimony by Hunt, he then examined the cables to determine whether there was any indication, as he hoped, that President John Kennedy had ordered the assassination of South Viet Nam's President Ngo Dinh Diem. Hunt said that this study was supervised by Charles Colson, then



FORMER WHITE HOUSE COUNSEL JOHN DEAN & WIFE MAUREEN IN WASHINGTON

*An impressive record for revealing unpleasant truths.*

their testimony in public to the Ervin committee. Some indictments could come as early as this week. The most likely persons to be indicted include John Mitchell, John Dean, John Ehrlichman, Bob Haldeman, Jeb Magruder and Fred LaRue.

There is, of course, a need to protect the judicial process so that anyone who has broken laws will be fully prosecuted. Indeed, the general complaint against the Justice Department is that it originally did not seem at all determined to do just that. Yet there seems to be an overriding need for speedy exposure of the full truth, so that all of the remedial moves can be taken to restore public confidence in the Government. Dean's attorneys have said that they "are proceeding on the assumption that there is going to be an impeachment." They argue that Dean's testimony is too valuable to the investigation to be thrown away for the sake of convicting such a relative small fry.

Support for Dean's position came

problems with the CIA and the White House, Gray scheduled a meeting with the then CIA Director Richard Helms. On June 28, the day of the meeting, according to Gray, he received a call from Ehrlichman, who insisted that it be canceled—an order Gray carried out. But, under continuing complaints from his agents, Gray called Nixon Campaign Director Clark MacGregor and reported that "a group of men around the President" seemed to be interfering with the investigation. Gray says he urged MacGregor to inform Nixon.

The President then phoned Gray, ostensibly to express his appreciation for the FBI's successful effort to abort a Southwest Airlines skyjacking in San Francisco. As Gray later explained to Senator Lowell Weicker, he decided then "to take the bull by the horns." He told the President: "You should know that the men around you are using the CIA and the FBI for their own purposes." According to Gray, Nixon ignored him, replying in a non sequi-



special counsel to Nixon. Hunt claimed that he showed Colson some cables that could conceivably have been interpreted as implied orders from the Kennedy Administration to "pull the trigger against Diem's head." According to Hunt, Colson declared: "Well, this isn't good enough. Do you think that you could improve on them?" Hunt said he would need technical help to fabricate something more conclusive, but Colson replied: "This is too hot. See what you can do on your own."

To draft a cable that sounded authentic, Hunt said that he then used a White House Xerox machine, a razor blade and a typewriter. Because it lacked the proper type face, however, he knew it would not stand careful scrutiny. He and Colson, Hunt testified, thereupon tried to convince a LIFE correspondent, William Lambert, that the cable was genuine. Lambert was impressed at first but later became doubtful and never wrote about it.

This kind of deceit, spying and burglarizing—directed from within the White House—was an appalling abuse of presidential power. Just how much Nixon knew about any such activity is, of course, one of the central mysteries in the whole Watergate affair. At the least, all of these men expected that there would be no outrage from the

Oval Office if their work was—or became—known at that high level.

Another intriguing puzzle is whether John Mitchell could have failed to tell Nixon everything he knew about the Watergate scandal well before it grew so threatening. The two men have long been close friends as well as political associates. They conferred often—and as equals—on matters beyond Mitchell's duties as Attorney General. He served in that post from early 1969 until March 1972, when he moved over to head the Nixon re-election committee. In both jobs Mitchell was one of the few people in Washington who, with a flick of his phone-dialing finger, could hurdle the White House "Berlin Wall" erected by Ehrlichman and Haldeman.

**Silly.** Mitchell claims that he opposed the Watergate wiretapping plans each time that he heard about them. But his duty as chief law-enforcement officer was to have the planners arrested right there for conspiring to commit crimes. Once the wiretapping was revealed last June 17, it seems inconceivable that Mitchell did not tell Nixon at once precisely who had pushed the scheme—or that Nixon did not ask.

As the man who had earned the admiration of most top police officials because of his strong support of wiretapping, "no knock" entry in making

arrests, and preventive detention of dangerous criminals while awaiting trial, Mitchell should have exposed all those he knew to have helped plot the crime. Instead, he publicly denied any advance knowledge of the affair, ridiculed the notion that the re-election committee had anything to do with it and dismissed reports that he was personally implicated with a brusque: "The stories are getting sillier all the time."

Just two weeks after the arrests of the Watergate burglars, however, Mitchell resigned as head of the committee with the explanation that his wife Martha wanted him to quit politics. Considering Martha's emotional state (*see box*) the explanation was not totally implausible, but it was far from convincing. It would be a most uninquisitive President indeed who did not ask his good friend whether that was the whole reason for quitting. Far more likely, the two probably agreed that Watergate made Mitchell a political liability, and so he must leave.

Mitchell's fall from grace has been abrupt and painful. Always outwardly serene but reflecting an inner toughness, he seemed oblivious to any kind of criticism. He brushed aside complaints by civil libertarians that many of his measures—including the mass May Day arrests of antiwar protesters in Washing-

## The Misfortunes of Martha

*"I've got one tongue and it works pretty well."*

ONLY three days after Martha Mitchell delivered those brave, perhaps defiant words during a Watergate deposition hearing, her tongue was stilled. Unable to sleep, distraught and unhappy, she put herself under doctors' care and voluntarily entered a medical institution last week for treatment of a nervous breakdown.

Martha, the unrepressed Southern belle, once took great pride in the fact that John Mitchell—her second husband, whom she married in 1957—was one of Nixon's closest advisers. Martha delighted in sounding off against anyone to the left of William McKinley—Senator J. William Fulbright, for example, should be "crucified." Few took any of this too seriously, for Martha had a certain wacky charm.

She kept unwontedly quiet when in June last year she accompanied John to California for fund-raising appearances in his new post as head of Nixon's re-election campaign. Then came the Watergate break-in. Mitchell flew back to Washington, leaving Martha at the Newporter Inn with Security Agent Steve King, who was there supposedly to guard her. Martha waited for King to fall asleep, then placed her famous phone call to U.P.I. Washington Re-

porter Helen Thomas. She got as far as threatening to leave Mitchell unless he quit the "dirty business" of politics. Then came the sounds of struggle, and the phone went dead. Martha later complained that she had been held down while being injected "in the bottom."

Martha's hysteria then was overt, but despite a certain amount of public skepticism, it turned out that her cries about official skulduggery had a solid basis in fact. The Mitchells made their peace, and John bought Martha a Fifth Avenue apartment, complete with gold bathroom fixtures, where she has kept herself busy since last fall selecting and arranging the furnishings.

In recent weeks, she has felt herself a prisoner; her apartment now is filled with flowers sent by reporters trying to curry favor. When a friend suggested going out for lunch, she retorted: "Now where am I going to lunch with all this fuss?" Two weeks ago, Martha discussed with intimates the possibility of John's being indicted. She was worried, but she kept herself in check and made a rambling deposition in the Democrats' civil suit. Though she showed remarkably good spirits, she once lost her temper: "I have been at the mercy of the White House for four years, who have treated me abominably, half-crucified me, have sent lies out through the press and started rumors galore about me."

The pressure inside Martha mount-

KEN REGAN—CAMERA 5



MARTHA SURROUNDED BY NEWSMEN

ed for two days and finally erupted in another late-night phone call to Helen Thomas. While her twelve-year-old daughter Marty begged her not to talk, she said deliberately: "If my husband knew anything about the Watergate break-in, Mr. Nixon also knew about it. I think he should say goodbye, to give credibility to the Republican Party and to the United States. I think he let the country down. Mr. President should retire."

Next day John Mitchell issued a public statement berating U.P.I. for treating what Martha said as anything more than "fun and games." But Martha Mitchell obviously was, to the breaking point, totally in earnest.



## THE NATION

ton in 1971—were part of a trend toward repression by the Government. Mitchell accurately enough accused the protesters of “bullying people, shouting down those who disagreed with them,” but he also venomously compared them with “Hitler’s Brownshirts.” He seemed unflustered when the U.S. Supreme Court last June declared some of his wiretapping orders unconstitutional.

Last week Mitchell was shaken by the indictments and looked years older than a few weeks ago. His voice trembled as he protested the grand jury’s decision: “I can’t imagine a more irresponsible action.” Ironically, an often-cited Mitchell statement can only haunt him now. Defending the Nixon Administration, he told civil rights activists in 1969: “Watch what we do instead of listening to what we say.”

Whether Nixon feels he has been be-

## TRIALS

# Pentagon Papers: Case Dismissed

**I** HAVE decided to declare a mistrial and grant the motion to dismiss.” With these 13 terse words, Judge William Matthew Byrne Jr. ended one of the most extraordinary legal—and in many ways, illegal—proceedings in the history of American justice.

By his ruling, the judge cleared Daniel Ellsberg and Anthony J. Russo Jr., both of whom freely admitted that they had secretly copied and leaked the Pentagon papers, of eight charges of espionage, six of theft and one of conspiracy. But since the case had never reached the jury, the two were not declared innocent by acquittal, nor had they been vindicated by their defense

that Ellsberg, then a consultant with the Rand Corp. “think tank” in Santa Monica, Calif., was copying parts of the Pentagon papers at night on a Xerox machine in an advertising-agency office.

At about the same time, President Nixon became incensed by various news leaks and ordered the FBI to stop them. As the bureau’s just-appointed director, William D. Ruckelshaus, now admits, the FBI failed in that mission: it did, however, set up a number of wiretaps without any court authorization. One of them was on the home phone of Morton Halperin, then a consultant for the National Security Council, and on that tap, the FBI heard some conversations by Ellsberg. Fully a year ago, Judge Byrne had demanded an account of all Government eavesdropping on Ellsberg, but Ruckelshaus disclosed the tap on Halperin only last week—and added the incredible news that all the tapes and logs of the overheard conversations had mysteriously disappeared from the files of both the FBI and the Department of Justice.

**Valid Changes?** All of these sensations—following the disclosures that the CIA had helped the Watergate raiders to break in to the offices of Ellsberg’s former psychiatrist—took the trial far from its original purpose. The Government had been determined to prosecute Ellsberg and Russo as criminals. The defense was equally determined to raise the broadest legal and constitutional issues. Was a charge of espionage valid when the defendants had given no information to a foreign power? (Ellsberg had returned the actual papers to the Rand Corp. files.) Could theft be alleged when the culprits had stolen nothing but information? Could conspiracy be proved if, as many lawyers believe, the statute defining it is so loosely drawn as to be unconstitutional?

All these matters weighed heavily on Judge Byrne. Then, three weeks ago, the prospect that the case would end in a dismissal surfaced with Byrne’s own disclosure that he had visited John D. Ehrlichman, who had offered him the directorship of the FBI, and that he had met President Nixon at the Western White House. The defense immediately demanded dismissal of the case. The judge refused, saying that he had declined to discuss the FBI offer with Ehrlichman and had done nothing improper.

As disclosure followed disclosure, the courtroom air became filled with defense cries of “taint” and motions for mistrial and dismissal, but Byrne hesitated. He was troubled because there were no very direct precedents to guide him. Indeed there could hardly be any, since both the charges and the revelations of the Government’s



DANIEL ELLSBERG & WIFE, JUROR & ANTHONY J. RUSSO JR.  
*The circumstances offended the sense of justice.*

trayed by Mitchell in the Watergate affair or whether the two men confided fully in each other about the scandal all along is still their secret. In demanding that everyone who has any complicity in Watergate be prosecuted fully, Nixon may well be hastening the day when Mitchell faces another legal ordeal. As for so many in this disheartening affair, the personal agony for both men is acute.

Richard Nixon pledged that his nominee as Attorney General, Elliot Richardson, and the special prosecutor Richardson has promised to appoint, will make sure that the guilty are punished. “They will get to the bottom of this thing,” Nixon vowed. Yet in another sense, prosecutors and the courts got to the bottom of Watergate last January when seven insignificant men were convicted. A more momentous and agonizing question remains: Will anyone now get to the top of it?

based on the assertion of the people’s right to know. Even so, the victory was so signal that as Byrne rose to leave the bench in U.S. district court in Los Angeles, the assemblage in the crowded courtroom rose, applauded and cheered him. Patricia Ellsberg rushed over to her stunned husband and asked plaintively: “Haven’t you got a kiss for your girl?” (He had.) Defense Counsel Charles Nessen ostentatiously broke out a big cigar and lit it. The prosecution team filed out in tight-lipped silence. Later, a majority of the jurors said that they would have voted for acquittal if they had been given the chance.

Judge Byrne, 42, a blond and sporty bachelor who once directed President Nixon’s Commission on Campus Unrest, came to his decision after 4½ long months of trial. Not until its final weeks were the murky beginnings of the case disclosed. Perhaps as early as 1969, and certainly by early 1970, the FBI knew