Sen. Lowell P. Weicker Jr. (R-Conn.) strongly attacked the Senate Watergate testimony of John N. Mitchell yesterday, forcing him to concede that he had failed his legal responsibilities both as a lawyer and former U.S. Attorney General in not reporting his knowledge of the Watergate cover-up and other extralegal activities involving the White House.

Mitchell, who had been a symbol of law and order as Attorney General, admitted under hard questioning by Weicker that he had not met the obligation of a lawyer, as an officer of the court, to report his knowledge of apparent crimes to the proper authorities.

Weicker and other members of the Senate select Watergate committee also exposed some apparent contradictions between Mitchell's testimony now and a sworn legal statement he made last year concerning what he knew about the planning and execution of the bugging of the Democrats' Watergate headquarters both before and after the June 17, 1972, arrests there.

After affecting an air of boredom throughout much of his second day of testifying, Mitchell changed his demeanor markedly during Weicker's interrogation. Mitchell yawned as Weicker began his questions, but later became hostile, giving curt answers in a choked voice and finally ending the day's testimony by caustically muttering, "It's a great trial they're conducting up here, isn't it?"

Throughout the day, Mitchell was asked time and again why, as President Nixon's close friend, adviser and confidant, he had failed to tell Mr. Nixon about the Watergate cover-up and other clandestine activities conducted by the White House staff.

At one point, Mitchell testified that after June 20, 1972, the President never asked him about what he knew of the Watergate affair, despite revelations that were appearing almost daily in the press.

On the one occasion when the President did ask, on June 20, just three days after the Watergate break-in arrests, Mitchell said he knew only "very little" about it. After he learned more—including the involvement of White House and re-election committee officials, and especially such other "White House horror stories" as the burglary of the office of Daniel Ellsberg's psychiatrist—Mitchell said he determined that telling Mr. Nixon these things would hurt his chances for re-election.

"Aren't you dead sure in your mind," asked Sen. Howard H. Baker Jr. (R-Tenn.), "that that was a mistake, not telling the President?"

"Senator," Mitchell replied, "I am not certain that that is the case, because while were talking about the weeks of June in 1972, where I still believe that the most important thing to this country was the re-election of Richard Nixon. And I was not about to countenance anything that would stand in the way of that re-election."

"Anything at all?" Baker asked.

"I am sure if it had to involve treason and other high crimes and misdemeanors that were directly related to the office, that there would be a very definite breaking point," Mitchell responded.

After the election, Mitchell said in response to a question by committee chairman Sam J. Ervin Jr. (D-N.C.), See HEARING, A13, Col. 1
that he still did not tell Mr. Nixon what he knew about the Watergate affair because "it wasn't my responsibility to do so."

"Did the President at any time ask you what you knew about Watergate?" Ervin asked.

"Not after that first discussion that we had on the telephone, I believe it was on June 20."

"Well," Ervin replied, "if the cat hadn't had any more curiosity than that, it would still be enjoying its nine lives, all of them."

Mitchell also conceded under questioning by Ervin that allowing former deputy Nixon campaign manager Jeb Stuart Magruder to give perjured testimony to the federal Watergate grand jury was a "very expeditious" course of action.

Weicker noted that President Nixon, according to his statement of April 17, ordered "intensive new inquiries into the whole matter" on March 21, the day before the White House meeting.

"So in effect," said Weicker, "no inquiry—even though the President stated new inquiries were being made—no inquiry was being made of you by this particular group of gentlemen, either the President, or Mr. Haldeman, or Mr. Ehrlichman, or Mr. Dean in that room at that time?"

"There was no such discussion," Mitchell replied.

"... Do you find this rather surprising?" Weicker asked.

"I do not," Mitchell said.
It was also under questioning by Weicker that Mitchell admitted that his failure to inform others of what he knew was not simply a case of bad judgment but a violation of a lawyer's responsibility as an officer of the court to report knowledge of a crime. Mitchell has testified that he learned after June 17, 1972, that Watergate conspirators G. Gordon Liddy and E. Howard Hunt Jr. also participated in the September, 1971, break-in at the offices of Daniel Ellsberg's psychiatrist.

Weicker asked Mitchell if he brought the break-in to anyone's attention. "I notified no one about the break-in," Mitchell replied. "As an officer of the court, as a former Attorney General, you were content to remain silent... even though you knew that your silence might possibly convict an American citizen by means of illegal conduct," Weicker said.

"That break-in produced nothing whatsoever," Mitchell responded. "No material was obtained or used."

Weicker: It is not really a question of what they found, is it, Mr. Mitchell?

Mitchell: In answer to your question, it is. Your question was whether or not American citizens could have been convicted because of this act, and I am saying that, as I understood the story as it was related to me, there was no material obtained or used. Since it hadn't been obtained, it couldn't have been used.

Weicker: You didn't know that at the time he committed the act?

Mitchell: I don't know at the time they committed the act. I had heard it when I was advised of the nature of the break-in.

Weicker: What I am saying to you is that you had no way of knowing at the time that if you remained silent, this man (Ellsberg) might not have been convicted through information, through information, that you knew had been illegally obtained.

Mitchell: What I am saying is that as these stories dribbled out and were embellished upon, it became known to me that their entry was unsuccessful in obtaining any information out of the doctor's office.

Weicker: Is there anything in this country, aside from the President of the United States, that puts you into awe, Mr. Mitchell?

Mitchell: To put me where?

Weicker: That puts you in awe?

Mitchell: There are very, very many things.

Weicker: Do the courts put you in awe?

Mitchell: Very much so.

Weicker: Does your oath as an attor-
Mitchell also testified before the committee that on March 30, when Magruder raised the Watergate bugging plan with him for a third time, Mitchell flatly rejected it.

"Now," Weicker said, "Mr. LaRue states that on March 30, 1972, when Mr. Magruder raised the Liddy plan to you in Mr. LaRue's presence, that rather than rejecting it, you merely told Mr. Magruder that he did not have to be decided at that time. Is there any way you can talk to Mr. LaRue's testimony as to what occurred at that moment in time?"

"No," Mitchell replied, "my recollection is very distinctly as to what I testified on yesterday (Tuesday), that the matter was rejected and it was rejected on that basis that I was fed up with the watergate stories and did not want to hear about them again."

During yesterday's interroga-tion of Mitchell, the committee exposed a number of apparent flaws in Mitchell's testimony from his deposition on March 30 and today, when Mitchell is scheduled to resume testifying.

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"But before we leave, Mr. Magruder appeared to be a bit upset, saying, "We never have before, and we never will, have any such one-sided discussions, even if we do not think the country could have been served better."

"Mitchell, as the hearing ended: It's a great shame they're conducting up here, isn't it?"

Following this exchange, the committee recessed until 10 a.m. today, when Mitchell is scheduled to resume testifying.

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Baker asked Mitchell by what authority he took it upon himself to make a decision that was "presidential grade"—a decision that Baker said would "significantly affect not only [Mr. Nixon's] election prospects and chances, but his presidency if he is re-elected.

Mitchell said he knew of no authority in the Constitution for "arrogating" unto himself a presidential decision. He asked Baker, "what authority is there?"

Mitchell: What authority? There is a matter of judgment you make in connection with these areas.

Baker: There are many judgments, some of them legal, some of them illegal.

Mitchell: Some of them in hindsight are quite improper obviously.

Baker: How do we protect against the necessity of viewing the world in hindsight?

Ervin and Mitchell differed over what would have been the consequences had Mitchell told Mr. Nixon what was going on, and the President had made a full public disclosure and fired those responsible. Mitchell said that disclosure would cost Mr. Nixon votes; Ervin said he doubted that.

"Well," said Ervin, "I have a higher opinion of the American people than that. I think if Mr. Nixon had lowered the boom, if you had told the President and the President had lowered the boom and come out in the performance of his constitutional duties to take care that the laws be faithfully executed, I think he would have made his election more sure than ever."

Throughout his testimony, Mitchell took every opportunity to speak out on behalf of the President, praising Mr. Nixon's integrity as well as his action as President. "I think," Mitchell told Inouye, "the good name of the President is going to be protected by the facts and by the President himself."

Mitchell was not, however, beyond criticizing one of Mr. Nixon's present aides, J. Fred Buzhardt, the White House special counsel for Watergate matters, who bore the brunt of several Mitchell slips Tuesday and yesterday.

Buzhardt was the author of a memorandum supplied by the White House to the committee for the cross-examination ofDean two weeks ago. That memorandum implied that, as Dean's spokesmen as not reflecting the official White House position.

Chairman Mitchell added a moment later, "after the election was over, I probably should have done so (go to the President). I didn't and it was probably a mistake."

"Well, as a matter of ethics," Ervin went on to ask you should have advised him about these matters just as soon as you learned about them."

"Well," said Mitchell, "that is a much more difficult question, because as I have said many times here in the last two days, I had the feeling that it would affect his re-election and I thought it would be paramount."

Ervin, pursuing his penchant for historical references and comparing past statements with later actions, recalled a theme of Richard Nixon's 1968 campaign expressed, according to Ervin in these words:


"America is in trouble today not because her people have failed but because her leaders have failed. Let us begin by committing ourselves to the truth, to see it like it is, and to tell it like it is, to find the truth, to speak the truth, and to live the truth."

Mitchell: I have no doubt whatsoever that his fidelity to the truth was the same as it was in 1968.

Ervin: And yet, he said that the way to save America in 1968 was to "find the truth, to speak the truth and to live the truth." And yet, when 1972 came, and those White House horrors became known to you, you did not take the advice that President Nixon gave us all in 1968, did you?

Mitchell: Not under that particular guideline, I assure you.

Ervin: In other words, not only were these events true in your case, but it was true in the case of Mr. Mardian, Mr. LaRue, Mr. Magruder, Mr. Dean and Mr. Ehrlichman, was it not?

There was a tone of morality to much of yesterday's questioning, focusing more on the propriety of his actions rather than on the details, at least until Weicker bore down at day's end.

Sen. Inouye, (D-Hawaii) asked whether Mitchell ever considered it was fair to the members of the opposition party or fair to the American people to conspire to keep them from the true facts of the matter.

"Yes," said Mitchell, "I am sure that that subject matter has crossed my mind many many times. But I do not believe now, I did not believe then that the President should be charged with the transgressions of others. And it is just as simple as that."