

WXP<sup>st</sup> JUL 12 1973

# Mitchell: Obligation Is Upon

Following are excerpts of yesterday's Senate select Watergate committee testimony by former Attorney General John N. Mitchell, beginning with questioning by Sen. Daniel K. Inouye (D-Hawaii).

Inouye: Mr. Mitchell, throughout these many days witnesses have testified as to hundreds of meetings, meetings held along the George Washington Parkway, meetings held in hotel rooms. I believe there are three meetings of special significance, one the meeting of January 27th (1972), the other of February 4th and the third March 30th, (all) prior to the June 17th break-in.

Witnesses have testified that at the first of these meetings criminal activities were discussed, to wit, the kidnaping of leaders of dissident groups and hiding them away in Mexico, the leasing of a yacht and fitting the facility with special photographic and eavesdropping equipment and servicing this yacht with prostitutes to entice the leaders of the opposition, and to place them in compromising positions, and the breaking and entering to photograph documents and engaging in the electronic surveillance, and I gather that at the first meeting you had, in addition to the Attorney General of the United States, Mr. (Jeb Stuart) Magruder, the deputy chairman of the Committee to Re-Elect the President, the counsel for the President of the United States, Mr. John Dean, and Mr. (G. Gordon) Liddy, the counsel to the Committee to Re-Elect the President, and yesterday, when asked about the price tag your response was, "Oh, just a million dollars."

At the close of that first meeting you testified that you told Mr. Liddy to "take that stuff out and burn it." At the second meeting on February 4th—this was also in the office of the Attorney General—in addition to the Attorney General, Mr. Magruder, Mr. Liddy and Mr. Dean were in attendance, and at this time we had a scaled-down plan costing about half a million dollars and at the close of this meeting Mr. Dean was quoted to have said "we should not be discussing this in the Attorney General's office."

Would I be in translating your statement "take that stuff out and burn it," to mean get rid of this incriminating evidence?

Mitchell: Not only that, Senator, to get rid of the incriminating evidence, but also to abandon any concept that any such activity would be part of the re-election campaign of the President.

Inouye: Did you advise the participants that they were essentially participating in a conspiracy to commit a crime?

Mitchell: Not at that time, no, sir, I did not.

Inouye: I ask this because just about that time your office, with much publicity and great vigor, had pursued the indictment of American citizens who had allegedly discussed the kidnaping of Doctor Henry Kissinger. Is there any difference between the discussion of a kidnaping and a discussion of these criminal activities in your office?

Mitchell: Senator, I think you have stopped very far short in connection with the activities of the indictment that you referred to. There were overt actions in connection with that as well as discussions.

Inouye: Was there any overt action in this case? There were three meetings, charts that cost a small fortune.

Mitchell: Those were not the type of overt acts that were involved in connection with the indictments that you have referred to.

Inouye: Why did you not, as the Attorney General of the United States, advise the President of these meetings?

Mitchell: For the very simple reason that I presumed and had every reason to believe that these matters were over and done with, were through, and that was the end of them. The President of the United States has many other things to concern himself with other than the type of factors that were involved in these meetings and many other meetings . . .

Well, to my mind the matter had not been approved, it was not going to be approved, and that was the end of it. There are many, many things that happen in connection with political campaigns that you do not go and advise the President with respect to. The obligation rests upon those that are conducting a campaign and not the President to follow each and every one of the details . . .

Inouye: I am certain, Mr. Mitchell, you have heard of the famous memo (to the Senate Committee) prepared (in June) by (Special White

House counsel J. Fred) Buzhardt?

Mitchell: The one that the Senator (Inouye) read?

Inouye: Yes, sir.

Mitchell: I have a slight knowledge of it.

(Laughter)

Inouye: In this memo, Mr. Buzhardt suggested that based upon the information made available to your successor, Mr. (Richard) Kleindienst, he stated in late July of 1972 that, "It did not appear that any White House people or any high ranking committee people were involved in the preparation of planning or discussion of the break-in."

The White House memo goes on to note that, "History fails to record that at that moment Dean corrected the (acting) Attorney General's erroneous impression by pointing out that Mitchell, Magruder and Dean had all been involved in planning of operations of which Watergate was the obvious derivative or that (Gordon) Strachan had knowledge of the fruits of this kind of operation or that all of them were suborning perjury and otherwise seeking to conceal the facts."

The memo goes on to fix Dean with the principal blame for, and I quote, "The political and Constitutional crisis that Watergate now epitomizes." . . .

That memo goes to say, "It would have been embarrassing to the President if the true facts had been known shortly after June 17 but it is the kind of embarrassment that an immensely popular President could have easily weathered. The political problem has been magnified a thousandfold because the truth is coming to light so belatedly, because of insinuations that the White House was a party to the cover-up and, above all, because the White House was led to say things about Watergate that have been since found to have been untrue."

Do you still maintain that you served your President and your nation well by the course you pursued?

Mitchell: Senator, I don't know whether you are adopting Mr. Buzhardt's premises or not. I certainly do not adopt them. Furthermore, as I listened to your reading of that particular paragraph it relates solely to Watergate. My reasons, my motives, had to do with an entirely different subject matter and that had to do with the White House horror stories, not the Watergate.

Inouye: Mr. Mitchell, if the re-election of President Nixon was so important that you were willing to engage in activities which have

Those Conducting Campaign

been well described as being irregular to insure his reelection, I think a question lies in many minds at this time. To what length are you now willing to go to deceive in an effort to avoid further implication of the President in the activities under investigation by this panel? More specifically, are you willing to lie to protect the President?

Mitchell: Senator, there is one great thing about the answer that I can give to that question to you. I do not have to make that choice, because to my knowledge, the President was not knowledgeable, certainly about the Watergate, or certainly knowledgeable about anything that had to do with the cover-up, if that is the phrase that we are using. So I do not have to make that choice.

Inouye: In your testimony, Mr. Mitchell, you have suggested that it would not be fair—that is the word you have used—fair to the President if the facts relating to Watergate and the White House horrors had been brought to his attention and to the attention of the American people during the election campaign. Have you ever considered whether 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 this matter?

Mitchell: Yes, 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.

Inouye: What was wrong with telling the people of the U.S. the facts involved as you knew them as Attorney General?

Mitchell: As Attorney General?

Inouye: Or as the Chairman of the Committee to Re-Elect the President?

Mitchell: The campaign director?

Inouye: Yes.

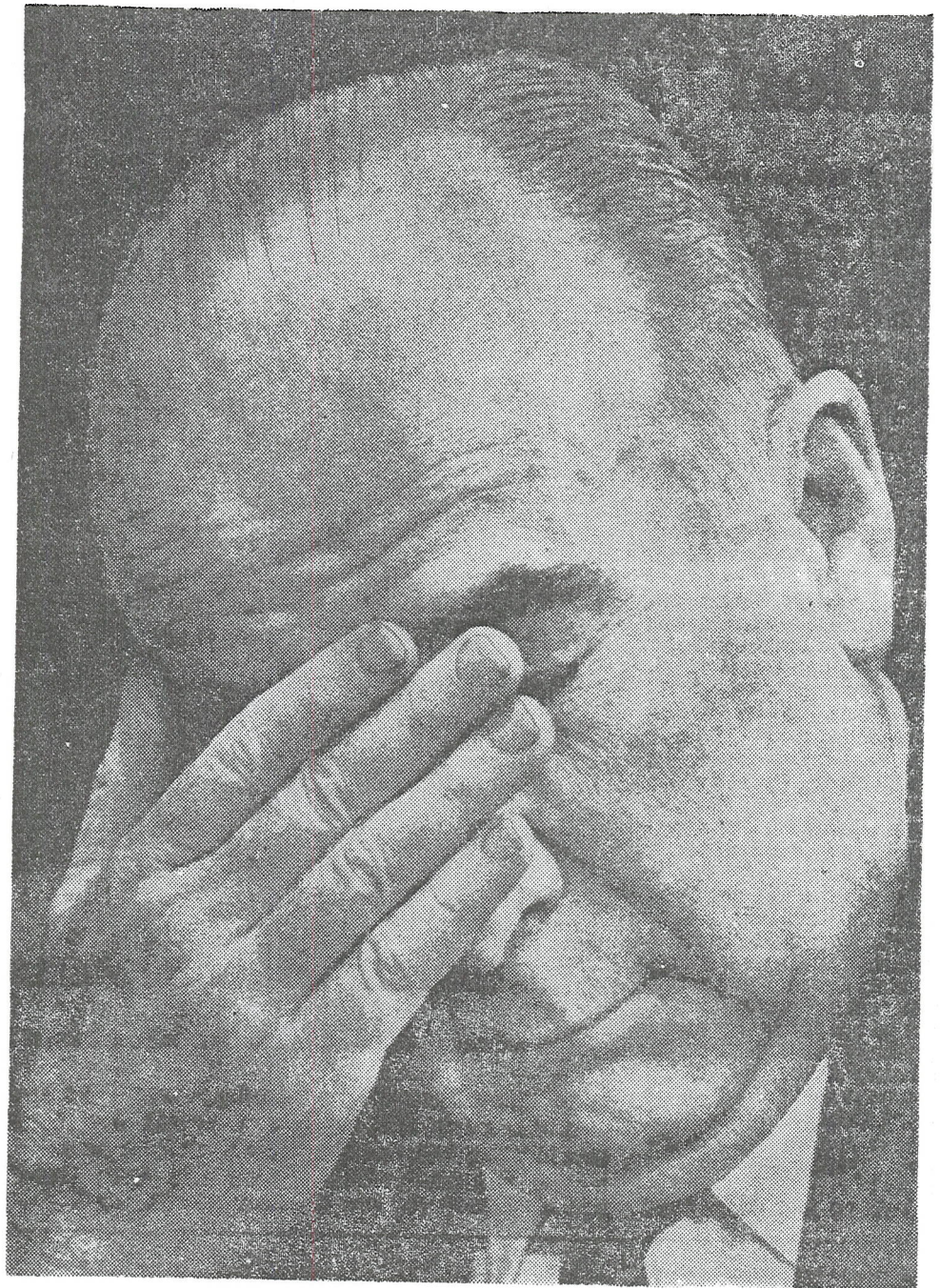
Mitchell: It was a fact that as you know, are well aware of, Senator, that these matters are imputed, of course, to the highest authority regardless of where they arise. And it was my opinion that he would be im-

properly associated with these activities.

Inouye: I am reminded that as Attorney General, like all public officials, you were required to take an oath of office to uphold the Constitution of the U.S. And I am reminded by telegrams that I have been receiving that this is a government of laws and not of men. Did you feel that the President was above the laws of the land?

Mitchell: The President is never above the laws of the land and to my knowledge, he has faithfully executed the laws of the land.

Inouye: Did you not think that in your discussion of the laws of the land and the



United Press International

A tired-looking John Mitchell took time out yesterday to rub his eyes.

upholding of the Constitution, you had an obligation to advise the President of these irregularities?

Mitchell: At what time and what time frame are you talking about, Senator?

Inouye: The meeting of Jan. 27, the meetings of Feb. 4 and March 30?

Mitchell: Well, of course, March 30, I was not in public office. With respect to the prior ones, the discussions did not go to the point where I thought it was of a requisite nature that anybody be advised of them because of the actions that I took with respect to them.

Inouye: In your discussion with Mr. Dash, you said the following, speaking of the President, and I believe that this is rather important. "What I am saying is that I think I know the individual, I know his reaction to things, and I have a very strong feeling that during the period of time in which I was in association with him and did talk to him on the telephone, that I just do not believe that he had that information or had that knowledge. Otherwise, I think the type of conversations we had would have brought it out . . ."

This is very important, because based upon your knowledge of the President, and as a judge of men and men's character, you are suggesting to this Committee and to the people of the United States that the President was not aware of the break-in and of the cover-up that followed. In your position as Attorney General, like all of us in public office, we are called upon to hire people or to get ourselves involved in the process of hiring people. I note that you have hired or was involved in the process of hiring very important men—Jeb Magruder, John Dean, Frederick LaRue, Robert Mardian, Mr. G. Gordon Liddy, and Major General Turner. I note that there is one thing in common with all of these men: They have all been involved in the commission of a crime. Would you say that you are a good judge of character, sir?

(Laughter.)

Mitchell: If the Senator wants to go back over that list, I will discuss them item by item.

No. 1, with respect to Mr. Dean, I did not hire him; Mr. Kleindienst did, as the Deputy Attorney General. I would have fully subscribed to his hiring him at that particular time. As Mr. Dean has testified, I advised him

to stay in the Justice Department, not to go to the White House.

With respect to Mr. Liddy, if you would take and look at his record and background to the date upon which his hiring was discussed with me by Mr. Dean, he had an impeccable record.

With respect to Gen. Turner, he probably had the finest record with respect to his activities to the date of his hiring as the chief marshal that anybody could possibly have. He had more citations, he was better known for his activities in connection with demonstrations and sabotage. We were depoliticizing the marshal's service. Here was a man with an impeccable Army record.

Have I missed somebody?

Inouye: Mr. Magruder.

Mitchell: Mr. Magruder, of course, was recommended from the White House and perfectly acceptable to me at that particular time.

So that if you look at the background of these individuals to the time that they came in to the picture so far as I was concerned, they all had impeccable records.

*Sen. Howard Baker (R-Tenn.) also pressed Mitchell on why he did not tell the President in 1972 all he knew about the Watergate affair, the cover-up and the clandestine White House activities, including the burglary of the office of Daniel Ellsberg's psychiatrist, that Mitchell calls "the White House horror stories."*

Baker: . . . Is the Presidency so shrouded in mystique, is there such an aura of magnificence about the Presidency, is there such an awesome responsibility for a multitude of problems and undertakings of this nation that the Presidency in some instances must be spared the detail, must be spared the difficulty of situations which in more ordinary circumstances might be considered by some at least to be frank, open, declarations of the criminal offense? Is the Presidency to be protected in that way? Is the splendor of the isolation so great that the President must be protected and if so, in what cases?

Mitchell: Senator, we can talk to the specifics of this particular case, the Presidency, in my concept of it and the way I have watched it function is that obviously the President cannot deal with all of the mundane problems that go on from day to day. He has to deal with the greater problems in the area . . .

It is my opinion and my concern with respect to this particular Presidency, that he should not have been involved in connection with these matters that bore directly upon his election, and he should have been protected from the knowledge of them.

Baker: Why?

Mitchell: In the interest of his re-election.

Baker: Why is that not a Presidential grade decision? Why of all decisions that might be made by the man, the candidate for President of the United States, why should he not be permitted to make that decision? What is it that arrogates that authority to someone else

other than the President, to take a material step that will significantly affect not only his election prospects and chances but his Presidency, if he is re-elected?

Mitchell: Because of the consequences that would obviously flow from it.

Baker: Why should he not make that decision?

Mitchell: If he were to make the decision there would be no alternative. He would have a choice of being involved in what you all referred to as a cover-up or he would be involved in the disclosures which would affect his re-election.

Baker: Mr. Mitchell, does that or not imply distrust of the decision-making ability of the man who occupied the office at the time—that, is that you spare him the responsibility to make such a fantastically important decision?

Mitchell: Quite the contrary, and I do not refer to it as a fantastically important decision. Of course, in retrospect, it has been, and perhaps the best thing maybe would have been to do that. But it is not a question of distrust of the President, it is a question of a recognition that if he were advised of the situation, that he would take these actions which would be deleterious to his campaign.

Baker: Then, what is your perception of the Presidency that leads you to believe that he ought to be spared the difficulty of making a monumental decision?

Mitchell: The very simple point, Senator, that it was an election year in which, if the facts were known to the President, that his course would have been obvious and it would have impeded his potential for re-election. Now, I am not saying today any more than I said yesterday that this was the right decision. I am telling you the basis upon which the decision was made.

Baker: I understand that. I have a full appreciation of the explanation you have given for why you made the decision. But I am trying to probe into your perception of the Presidency, your relationship to it, your knowledge of the man, that led you to make a decision for him.

Mitchell: Let me review it again. Knowing the current President, knowing his respect for the Presidency, that there would be no options, no decision-making on his part. He would have unloaded, as I think I said yesterday, on all of the White House horror stories and this, in my opinion, would have impeded and had a direct effect, an adverse effect, on his re-election.

Baker: Is there any other important decision that you can think of that the President ought to be spared from making? Give me another example of another situation where the Attorney General of the U.S. or the Chairman of the Committee to Re-Elect the President, or administrative staff or anyone else, should decide in order to spare him the lack of options, as you have described it . . .

Tell me another one that would be similar, another one that you would not tell

the President about, another consequential decision that you would not tell the President about to avoid eliminating his options.

Mitchell: I think as your hearings go on, you will find out about other ones, in connection with the staging of demonstrations up here in the Capitol and some of the other activities that were undertaken by some of the people who were involved in this campaign, that obviously, he would have to condemn if they were known to him.

Baker: Is not what you are telling us, Mr. Mitchell, that in certain cases, in order to preserve a range of political options, that the President should be denied access to the information on which to make a legal and valid judgment as to the propriety of those actions? And if you say yes to that, is it not true that that theorem has a significant diminishing effect on the powers of the Presidency as described in the Constitution?

Do you not in fact, by that, arrogate unto yourself a Presidential decision?

Mr. Mitchell. Senator, I think the answer is yes in all of those particular areas . . .

Senator Baker. What is the constitutional basis for arrogating unto yourself or anyone else . . . a Presidential-level decision?

Mitchell. I have not found one in the Constitution, Senator.

Baker: Then, what authority is there?

Mitchell: What authority there is, 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 . . .

There are many, many circumstances that probably have a greater effect on this country that happen every day within the departments that the President is not aware of so that he does not have the facility to make the decisions that are—

Baker: Then, your answer to me implies—and I am not prepared to agree with it—but it implies a defect in the institution of the Presidency: that is, the institution itself is not capable of dealing with first-magnitude questions. And I really am

not prepared to believe that.

Mitchell: I am not prepared to believe it or agree with it, either. I am telling you that the Presidency is perfectly capable of dealing with them if he has the information.

Baker: If someone else takes on themselves the decision-making authority and important issues and spares him, is that what you say?

Mr. Mitchell: This is frequently done, as you know. Not in the particular circumstances that you have just described, but it is done from day-to-day throughout the government and always has been . . .

Baker: It was—aren't you dead sure in your mind that that was a mistake, not telling the President?

Mitchell: Senator, I am not certain that that is the case, because we 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.

*In yesterday's afternoon session, the committee's chairman, Sen Sam J. Ervin (D-N.C.), also asked Mitchell about his conversations with the President, after Ervin first detailed Mitchell's knowledge of the Watergate cover-up following the June 17, 1972, arrests inside the Democrats' Watergate headquarters.*

Ervin: . . . didn't you shortly after, didn't you find out shortly after the 17th day of June that Magruder had financed the burglaries?

Mitchell: Yes, sir, that was in the week following the break-in.

Ervin: In other words, it appeared very shortly that five burglars had been caught in the Watergate and that one of them was Mr. McCord, an employee of your committee?

Mitchell: That is correct, sir . . .

Ervin: Now, very shortly after . . . you also found that Liddy, who had been general counsel to the committee, the Finance Committee to Re-Elect the President, and another employee of your committee, E. Howard Hunt, had been arrested for complicity in the break-in.

Mitchell: Senator, may I point out that to the best of my knowledge, Mr. Hunt was never an employee of either one of the committees.

Ervin: Mr. Hunt was employed in the White House, was he not?

Mitchell: I have learned that since, yes.

Ervin: Well, you found out sometime in the summer, did you not, that Mr.

Hunt had been sent over to the committee by Mr. Colson?

Mitchell: Yes, sir.

Ervin: And you found out about the same time that Mr. Hunt had been implicated in the burglary of the office of the psychiatrist of Ellsberg?

Mitchell: Yes, sir . . .

Ervin: And then, after you came back from California, you talked to Mr. Robert Mardian and Mr. Fred LaRue and Mr. Dean and Mr. Magruder about these matters.

Mitchell: That is correct, sir.

Ervin: And from your conversation with these men, you realized that Dean and Magruder participated—that Magruder had participated in the break-in and that he and Dean were engaged in what has been called the cover-up?

Mitchell: If I can answer just slightly different, Mr. Chairman, we did learn that Magruder had obviously been providing the funds that were used in connection with the activities of the group that did break in.

Ervin: And did you not find out that Dean and Magruder were trying to conceal these events?

Mitchell: Well, this came quite a bit later down the pike but we did obviously learn that this was the case . . .

Ervin: And you also found that money which had been contributed for the re-election of President Nixon had found its way into the bank accounts of (Bernard) Barker, one of the burglars at the Watergate?

Mitchell: Yes, sir, that came forward quite early.

Ervin: And then Magruder told you that, in effect—well, first, you talked to LaRue and Mardian and they both knew about these events. You could tell that from the conversations they had with you, did you not?

Mitchell: They told me, repeated what Mr. Liddy had told them, yes, sir.

Ervin: And that was that he had participated, had instigated this burglary at the instance of Magruder?

Mitchell: That is the basis of their representation to me as to what Liddy had said.

Ervin: Yes, and from that, your conversation with Robert Mardian and Fred LaRue, you learned that they had been appraised of that fact?

Mitchell: That is correct.

Ervin: You also were informed by Magruder that he, Magruder, was prepared to commit perjury when it went before the grand jury in August rather than to reveal what he knew about these matters?

Mitchell: That was correct, sir . . .

Ervin: Yes. Well, did Mr. Mardian and Mr. LaRue ever talk to you about the Magruder proposal to commit perjury?

Mitchell: They were present on an occasion or more in which Mr. Magruder stated what he was going to testify to.

Ervin: Did you ever have any conversation with Mr. Haldeman about these matters?

Mitchell: Not until much later on, Senator.

Ervin: How much later on?

Mitchell: This year.

Ervin: You mean you never had any conversation with Mr. Haldeman until 1973?

Mitchell: About the subject matter that you are referring to with respect to—

Ervin: Well, what about Mr. Ehrlichman?

Mitchell: I had no such conversations with Mr. Ehrlichman . . .

Ervin: And you were aware of the fact that sometime about early September or late August that the President made a statement to the American people to the effect that nobody involved, nobody presently employed in the White House had anything to do with any of these matter?

Mitchell: As I recall the statement, Senator, and I am not sure that I can recall it specifically, I believe the statement was to the effect that there was nobody in the White House that was involved in the breaking and entering of the Watergate . . .

Ervin: Well, I think you stated that Mr. (Gordon) Strachan was liaison between Haldeman in the White House and the Committee to Re-Elect the President?

Mitchell: I think you can broaden that, Senator, to the fact that he was liaison between the White House and the Committee to Re-Elect the President.

Ervin: . . . And did you not learn that he had been advised by Mr. Dean and Mr. Magruder as to what was going on in the Committee to Re-Elect the President at these times?

Mitchell: Well, Mr. Strachan was constantly being advised as to what was going on in connection with

the matters at the Committee for the Re-Election of the President. In fact, he attended meetings from time to time of the Committee.

Ervin: And he attended there for the purpose of advising the people at the White House as to what the Committee was doing didn't he?

Mitchell: I presume that was his purpose.

Ervin: Now, as I understand your testimony, you talked to the President twice about Watergate, the first time in June, 1972, and the second time on 22d of March, 1973.

Mitchell: When we talked about Watergate, Senator, those were two occasions upon which they were discussed. I also testified yesterday that in some of the political meetings that were had, the general subject matter was discussed as to how the President should approach it with respect to a type of Warren Commission or special prosecutors and other such items . . .

Ervin: Well, you had a conversation with the President about Watergate in June, 1972, didn't you? I believe it was June 20.

Mitchell: The 20th of June, a short telephone conversation, that is correct.

Ervin: And you apologized to the President for Watergate?

Mitchell: I apologized to the President for not keeping track of the personnel in the committee to the extent that the Watergate matter could have happened . . .

Ervin: Didn't the President ask you then what you knew about Watergate and why you were apologizing?

Mitchell: I think I told him what I knew about Watergate at that particular time, which was very very little.

Ervin: Well, he could have learned about McCord by reading the newspaper, couldn't he?

Mitchell: Obviously. That is where I learned about it.

Ervin: And every day, the newspapers and the other media of communication, from that time on till the present, were carrying new revelations about Watergate, weren't they?

Mitchell: From time to time, that was a correct statement, yes sir . . .

Ervin: Did the President at any time ask you what you knew about Watergate?

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

Ervin: Now, you state that you kept silent concerning the things you knew because you considered the re-election of President Nixon of such extreme importance?

Mitchell: That is correct, sir . . .

Ervin: And you were afraid to tell the President—well, I won't say afraid, but you preferred not to tell the President and didn't tell the President because you didn't want the President to do what you called lowering the boom?

Mitchell: That is exactly correct.

Ervin: And if he had lowered the boom, why, the thing would have been exposed.

Mitchell: I don't think there is any doubt about it.

Ervin: And the American people would have learned about it?

Mitchell: They would have learned about it.

Ervin: And it might have affected the votes of the American people?

Mitchell: It is quite conceivable—I don't expect to an extent that some of us might believe. I think that is a matter for debate, but it certainly could very well have affected the outcome . . .

Ervin: Well, it was another president named George Washington who had an adviser named Alexander Hamilton, and Alexander Hamilton laid down two precepts. One was, "But you must by all means avoid the imputation of evading an inquiry and protecting a favorite."

Is it conceivable that you are trying to protect the President? Or was it conceivable that you were trying to protect the President?

Mitchell: Protect the Presidency, not from the fact that he was involved, but the fact that the derivative activities of those in the White House might cast a cloud upon the President.

Ervin: And Hamilton also stated, "It was my duty to state facts to the President." You don't feel like it was your duty to state facts to the President?

Mitchell: Under certain circumstances, there is no question about that.

Ervin: Well, in respect to the Watergate horrors, you never felt any compulsion, either before or after election day, to advise the President of what you knew?

Mitchell: In retrospect, Mr. Chairman, after the election was over, I probably should have done so. I didn't, and it probably was a mistake . . .