

Grilling By Dash Sharpens

Depositions Contrasted To Testimony

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and Peter Osnos
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Former Attorney General John N. Mitchell ended three days of testimony before the Senate select Watergate committee yesterday defending himself against documented charges that he had given conflicting sworn statements about his role in the Watergate affair.

"What I have to say to on that, Mr. Mitchell," chief committee counsel Samuel Dash said, "is that since you may have given false testimony under oath on prior occasions, is there really any reason for this committee to believe your testimony before this committee?"

Dash questioned Mitchell sharply for about two hours yesterday, forcing the former chief law enforcement officer of the United States to admit that top White House aides H. R. (Bob) Halzman and John D. Ehrlichman shared an "active concern" to "keep the lid on" the Watergate affair and that they and Mitchell participated in frequent meetings to achieve that purpose.

Mitchell also confirmed, under Dash's questioning, that earlier this year, he understood that then special counsel to the President, Charles W. Colson, "would exercise his best efforts" to obtain executive clemency for Watergate conspirator E. Howard Hunt Jr.

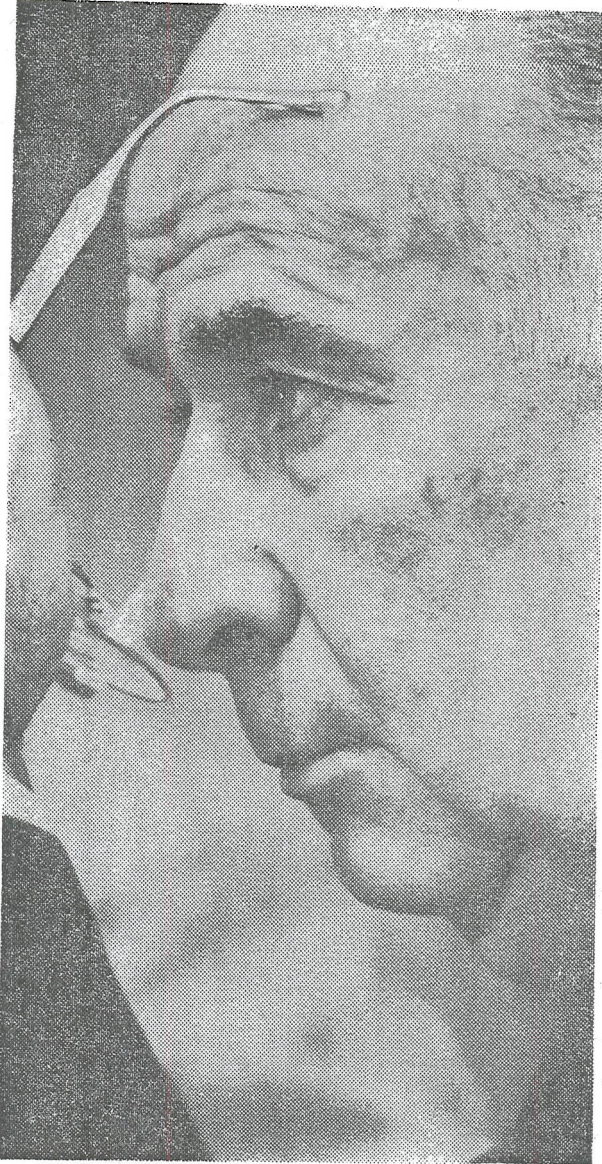
Like the previous two days of testimony, during which Mitchell's answers reflected toughness, boredom and sarcasm, his mood yesterday was subdued. As

MITCHELL, From A1

Mitchell said that for him President Nixon's re-election was the "paramount" consideration.

Asked by Dash if he was "surprised" that President Nixon never asked him again about the Watergate affair, Mitchell replied, "I am not particularly surprised by it at all, no."

"If he (Nixon) had asked you what your knowledge was, especially before the



By Douglas Chevalier—The Washington Post

John Mitchell: "I would have laid out chapter and verse."

Dash pressed his attack, Mitchell's voice assumed an anxious tone, as he attempted to explain his conflicting testimony.

Dash, whose previous examination of witnesses, including Mitchell on Tuesday, had generally been relatively gentle, pursued Mitchell tenaciously yesterday while citing a number of instances in which Mitchell's earlier sworn testimony conflicted with what he had told the committee.

Throughout his testimony, Mitchell—who is under indictment for perjury and obstruction of justice by a federal grand jury in New York and facing possible indictment by the Watergate federal grand jury—was still a reluctant witness, volunteering little information in his responses to questions.

Mitchell's testimony over

the three days breaks down into three broad areas: What Mitchell did himself, what Mitchell knew, and what Mitchell told President Nixon about it.

Mitchell testified that President Nixon asked him only once—three days after five men were arrested inside the Democratic National Committee's Watergate headquarters—and never again, what Mitchell knew about the Watergate affair. Mitchell said he volunteered no information to Mr. Nixon because if Mr. Nixon had known the truth about Watergate and other clandestine, extra-legal White House activities, he would have "lowered the boom" on wrong doers inside the White House and endangered his re-election.

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election, would you have told the President?" Dash asked Mitchell.

"I would have laid out the chapter and verse on everything that I knew about it," Mitchell replied.

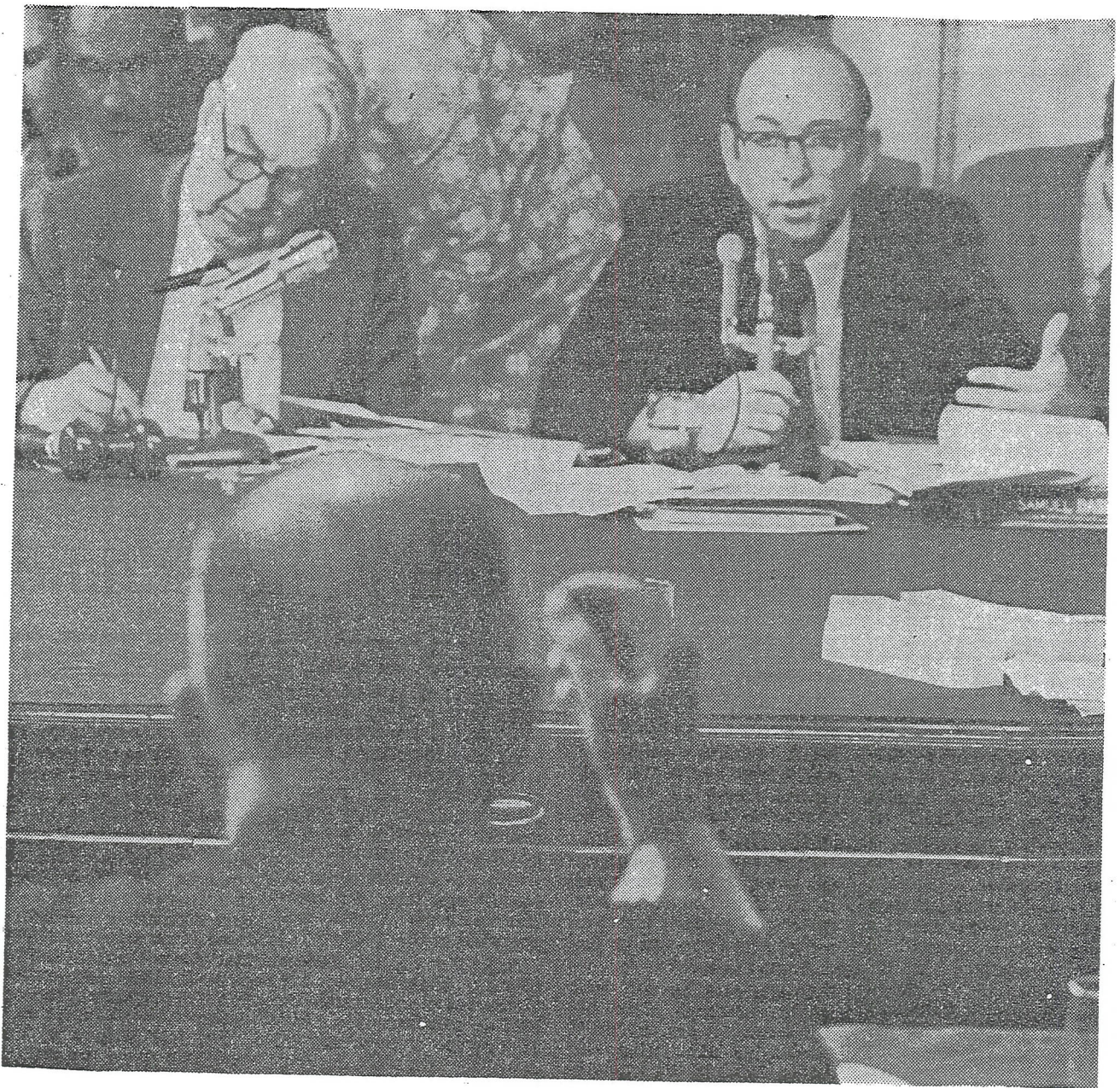
What Mitchell knew, according to his testimony, committed before the grand jury, that "support money" was being paid to the Watergate defendants, that efforts were being made to stall civil litigation brought against the Committee for

the Re-election of the President by the Democratic Party as a result of the Watergate break-in and bugging, that Watergate conspirators G. Gordon Liddy and E. Howard Hunt Jr. while working for the White House had been involved in other illegal activities—termed “White House horrors” by Mitchell—that included the burglary of Daniel Ellsberg’s psychiatrist’s office, “extracurricular wire-tapping” and the forging of State Department cables by Hunt in an effort to implicate President John F. Kennedy in the assassination of South Vietnamese President Ngo Dinh Diem.

Although he said he did not tell Mr. Nixon about these events in order to guard against endangering the 1972 election, Mitchell told the committee that he took no steps to stop anyone else from telling the President. Mitchell said he “assumed” that others had made their own individual decisions as he had made his.

As far as his own role was concerned, Mitchell denied assertions made by previous witnesses that he had approved the bugging of the Watergate and had been a principal figure in the cover-up.

Significant portions of Mitchell’s testimony on his own role were in direct conflict with earlier testimony by Jeb Stuart Magruder,



By Douglas Chevalier—The Washington Post

Sen. Ervin takes notes as Majority Counsel Sam Dash puts a series of questions to John Mitchell, foreground.

"I believe that to be true," Mitchell replied, "and I believe the rechecking of the records, and the committee being kind enough to furnish me a copy of the agenda that Mr. Dean provided, and further reflection so it has brought the subject matter very much into focus."

Dash also pointed out that on July 5, Mitchell told the FBI that the only knowledge he had of the Watergate affair was what he had read in the newspapers.

"That is correct," Mitchell replied. "Mr. Dash, at that particular time, we weren't volunteering any information for the reason that I have discussed here."

"Mr. Mitchell," Dash responded, "you enjoy the distinction, and you have made it from time to time, that it was your purpose to not volunteer anything. Is there a distinction between your not volunteering anything and lying?"

"If you do not volunteer an answer to a direct question, you might say you do not volunteer anything, but actually, you are lying."

Mitchell's testimony yesterday concerning Haldeman and Ehrlichman was the culmination of a gradual process over the three days in which he became increasingly informative about the part played by the two senior presidential aides in the cover-up of the Watergate and the White House "horror stories."

On Tuesday, Mitchell first said he communicated with Haldeman and Ehrlichman through Dean in most instances. He did acknowledge, however, having "some discussions of the so-called White House horror stories" with them in person.

"I think we all had innate fear," Mitchell said Tuesday, "that during the campaign they might be revealed. I recalled discussing it specifically in that area, but I am sure we must have had a mutual concern about the subject matter."

On Wednesday, Mitchell went a bit further in saying Haldeman and Ehrlichman had direct knowledge of the cover-up.

"Well, eventually down the road there was discussion," Mitchell said in response to a question by Sen. Joseph Montoya (D-N.M.), "in connection with the fact that there was (to be) no volunteering or coming forward and that there was a design not to have the stories come out that had to do with the White House horror activities. There is no question about that."

Yesterday, Mitchell went further still in this exchange with committee chief counsel Dash:

Dash said Mitchell had already testified that he did not discuss the Watergate break-in with Haldeman and Ehrlichman until 1973, but did discuss the White House activities in 1972.

Mitchell: That is correct, sir.

Dash: And in those discussions, were those discussions concerned with the strategy to keep the lid on?

Mitchell: There was no question about the fact that we discussed the problems that would arise if the parties that had been involved were to come forward with all of the conversations and all of the discussions and all of the information they had relating to them.

Dash: And specifically in this particular context the parties that you were most concerned with, I take it, were the two defendants under indictment, Mr. Hunt and Mr. Liddy?

Mitchell: They were the participants, yes, sir.

Dash: And there was no doubt in your mind in those discussions that Mr. Haldeman and Mr. Ehrlichman were taking an active role themselves in attempting to keep the lid on?

Mitchell: Well, I would say that they had a very active concern, just like I did.

Dash: And that active concern was implemented, I think.

Mitchell also yesterday lent support to the claim by John Dean that Charles Colson played some role in winning assurances for Hunt of

executive clemency. Colson denies having discussed executive clemency for Hunt with Mr. Nixon or anyone else.

Mitchell said that it was his recollection that he was told by Dean or Paul O'Brien, a lawyer for the Nixon re-election committee, that "Hunt wanted assurances from Mr. Colson with respect to executive clemency."

Dash: Did you hear, whether it be from Dean or O'Brien that Mr. Hunt got some assurances from Mr. Colson?

Mitchell: I believe that my recollection is that there were assurances that Mr. Hunt would have executive clemency.

Dash: Now you know, Mr. Mitchell, that the only person who could grant executive clemency is the President of the United States.

Now when you heard that, did you inquire of anybody whether or not the President of the United States had authorized such assurances to be made?

Mitchell: I am well aware of, Mr. Dash, that the President is the only one who can exercise the power. It was not in that context, it was in the context that Mr. Colson would exercise his best efforts to obtain the executive clemency.

Dash: Do you know whether he ever did so exercise his best efforts with the President?

Mitchell: I have no idea.

In his testimony two weeks ago, Dean said that on March 13, Mr. Nixon had told the matter of executive clemency for Hunt had been raised by Colson even though Colson had been told not to discuss the subject with the President.

At another point in his questioning yesterday, Dash bore down on the portrayal by Mitchell of an essentially passive role for himself in the development of the Watergate cover-up.

But Mitchell persisted in placing himself at the receiving end of decisions made around him rather

than the initiator of the cover-up policy.

"Are we to assume," asked Dash, "that you are a passive man in this operation, Mr. Mitchell?"

"Mr. Dash," said Mitchell, in one of the few bits of sarcastic humor he allowed himself yesterday, "I think that would be very nice if you would do just that, but I want to also point out to all of you that all of these meetings you are talking about (during June, July, August and September with Magruder, Mardian, LaRue, Dean and others) this did not all have to do with Watergate. They had to do with other things in the campaign.

"I know," said Dash, "but they quite frequently had to do with Watergate?"

"They did quite frequently," replied Mitchell.

"And wasn't your opinion quite frequently a deciding factor in so many of these things," Dash continued, "certainly sought after in these decisions?"

Mitchell: There is no doubt that I undertook many of the discussions in connection with the matters that were brought up at those meetings . . .

Dash: Well, would it be fair to say then that frequently you were an active participant, not just sitting in the room and listening?

Mitchell: I was a participant in the discussions, no question about it.

Dash: And also in the decision making process?

Mitchell: I am sure that there was a consensus that would come out the discussions in the room and I would be a part of that consensus.

Mitchell and Dash also went through a long and detailed colloquy about efforts to keep the civil suits filed by the Democrats after the Watergate break-in from coming to trial before the election in November. "There was a strategy to keep the civil suits from proceeding," Mitchell acknowledged.

Dash elicited the admis-



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Sen. Sam J. Ervin, chairman of the Senate Watergate committee, whispers to Sen. Howard Baker, vice chairman

sion that the strategy of delaying the civil suits was part of the same cover-up that was intended to prevent the truth from emerging in the Watergate criminal case or through investigations by the press.

The strategy involved a number of meetings in August and September attended by Stans, Kenneth Wells Parkinson, a lawyer for the re-election committee and H. Roemer McPhee, a Washington lawyer active in Republican politics who Mitchell said had long been adviser to Stans.

In earlier testimony before the Senate committee, Dean said that McPhee "was having private discussions" with U.S. District Court Judge Charles R. Richey in an attempt to influence the judge's handling of the case.

Richey has called Dean's allegations "sheer poppycock, ridiculous."

Mitchell said yesterday

that McPhee, as far as he knew, had not made any personal approaches to Richey, but he did concede that McPhee, who has known Richey for some time, "contributed to the intelligence as to how he thought Judge Richey might handle the case and what his attitude might be with respect to different motions and matters just like you would discuss with any other judge who might be handling a case."

Mitchell insisted, however, that McPhee, who was acting as a volunteer consultant, was sitting in to advise Stans on the three separate civil suits that had been filed in connection with the Watergate case and campaign financing.

If Mitchell had thought approaching a judge might have been an effective means of "keeping the lid on" the Watergate affair until after the election, Dash asked, "you would have done it?"

"I would have great reluctance to have approached a judge," Mitchell said, "... to compromise the judicial system."