

# MITCHELL BARRED CRIMINAL CHARGE

When Attorney General, He  
Urged Civil Action on Milk  
Outfit That Aided Nixon

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WASHINGTON, Dec. 26 —

The Justice Department disclosed today that John N. Mitchell, when he was Attorney General, rejected two recommendations by his department's Antitrust Division to begin criminal proceedings against a milk marketing cooperative that had been a big contributor to President Nixon's re-election campaign.

Mr. Mitchell urged instead that a civil antitrust action be brought against the cooperative, Associated Milk Producers, Inc. and this is what the department's Antitrust Division did.

The disclosure was contained in an affidavit by Richard W. McLaren, former Assistant Attorney General in charge of the Antitrust Division, filed Friday in the United States District Court in San Antonio, Tex., as part of a brief related to the Government's civil suit against the cooperative.

The brief, released today, confirmed earlier reports that Mr. Mitchell had turned down recommendations of criminal action against the milk cooperative.

The brief asked the court to reject a motion by the cooperative asking access to all documents and tapes relating to a Government investigation of a possible quid pro quo between the milk industry's campaign contribution to President Nixon and favors that the Administration allegedly gave to the milk industry.

### Facts Held Lacking

The Justice Department asserted in the brief that there were no facts to support allegations by the milk cooperative that some Administration officials attempted "extortion" by using the threat of antitrust action to obtain additional campaign contributions.

However, noting that these are "not ordinary times," the Justice Department agreed to hand over to the court the documents relating to the investigation so the presiding judge might determine for himself whether they were relevant to the antitrust case.

The brief also contained an affidavit by Jon A. Sale, an assistant special prosecutor in the office of Watergate Special Prosecutor Leon Jaworski. Mr. Sale said that he was familiar with all the tapes and documents relating to campaign contributions from milk cooperatives, and that none supported the cooperative's charges.

Mr. Sale also disclosed that the special prosecutor's office was conducting an investigation into "possible criminal conduct by AMPI." Lawyers familiar with the milk case said that as far as they knew this was the first time it had been publicly disclosed the Government was considering criminal charges against the milk cooperative in connection with campaign contributions.

### Cooperative Gave \$200,000

Associated Milk Producers contributed some \$200,000 of the \$420,000 officially reported as contributions by the dairy industry to President Nixon's re-election campaign. A letter to Mr. Nixon from a lawyer representing the dairymen pledged that as much as \$2-million would be given to the campaign.

Mr. McLaren, who was appointed a United States District Court judge in Chicago after leaving the Justice Department, said that on Sept. 9, 1971, after an investigation by his staff and consultation with the Agriculture Department, he asked Mr. Mitchell to authorize a grand jury investigation "into a possible conspiracy by AMPI and others to eliminate competition in the marketing of milk in certain Midwestern states."

Mr. McLaren said in his affidavit that he was aware when he sent his first recommendation to Mr. Mitchell that President Nixon had addressed the cooperative's annual convention only one week before.

### Urgency Is Stressed.

On Nov. 30, Mr. McLaren testified in his sworn statement, Mr. Mitchell discussed with him his requests for a grand jury investigation.

After reviewing the legal and tactical questions involved, including the difficulties of obtaining a criminal conviction in the face of a defense that the defendants' activities were exempt from the antitrust laws, Attorney General Mitchell suggested that the Antitrust Division proceed along "civil rather than criminal lines," the statement said.

Mr. McLaren then said that because it was so urgent to start antitrust measures against the milk cooperative, he asked his staff to "review the information it had" and try to obtain evidence to bring a civil case.

Mr. McLaren's affidavit also said that an AMPI lawyer, questioning the propriety of an antitrust suit, had stated to a Justice Department official that "dairymen were big political contributors."