

By William Safire

WASHINGTON — When Whitney North Seymour Jr., then United States Attorney for the Southern District of New York, called a news conference to announce the indictments of John Mitchell and Maurice Stans, he heaved a sigh for the cameras and bemoaned a "sad day for justice."

It was. Mr. Seymour was playing up the irony of a former head of the Justice Department being indicted, but the genuine sadness of that day was in the way a weak indictment based on dubious evidence was used to try to catch a couple of big fish in the reign-of-terror atmosphere of Watergate.

The acquittal of the two former Cabinet members on every one of the counts brought against them is significant for these reasons:

1. People are going to come to understand that not every charge brought against an individual by a grand jury is true. The verdict will come as a shock to those who all too readily assume guilt when a prosecutor points a finger.

2. In a televised Senate hearing, or in a grand jury session, when only one side is presented and no cross-examination is permitted, it is easy to "convict" the man in the hot seat; in a court of law, especially outside the publicity-saturated District of Columbia, a jury can reach a decision protected from a climate of hatred and fear.

3. This is the first legal event since James McCord began to testify, it seems a thousand years ago, which came out on the plus side for the Nixon men. After an unbroken string

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of indictments, guilty pleas, convictions and sentencings, at last the words "not guilty" were unabashedly pronounced, by a young jury forewoman whose wisdom and beauty come across to a few beleaguered men as the reincarnation of the goddess Athena. One swallow doesn't make a

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summer, but it beats the constant sound of distressed gulping.

4. Chief accuser John Dean 3d was not believed. Mr. Dean is reverently believed by the newsmagazines, by the majority of the television audience, and by the special prosecutor, but when the chips were down he did not deliver—the jury obviously decided he was not telling the truth.

This week, the President—who is now working on his television speech—will give the House Judiciary Committee transcripts of the crucial meetings of last year with John Dean and others, and will suggest a way of verifying that what has been cut out of the transcripts is irrelevant to Watergate.

When the transcripts are studied, it is my guess that the focus will again

be on John Dean: Was the error he made in placing his "tell-all" meeting with the President on March 13 just a lapse of memory, or was there a reason for it? Did the President tell Mr. Dean on March 21 to call John Mitchell to account, as Mr. Dean reported, or was it Mr. Dean's idea? Does John Dean's testimony in the Mitchell-Stans trial jibe with what he said he told the President and with what the tapes will reveal?

I don't have the answers, but like the jury in the Mitchell-Stans trial, I have had my suspicions about Mr. Dean's truthfulness.

The verdict in this case does not supply the White House with a can of whitewash to splatter all over every Watergate episode, but neither can the impeachment brigade dismiss it as a fluke or a non-Jaworski production. When the House meets to consider the indictment of the President, it cannot shut its eyes to a jury's absolute rejection of an indictment of two Cabinet members.

As Mitchell defense counsel Peter Fleming asked the jury in his summation, with no concern for grammar but with a sure grasp of the central issue, "Who do you believe? John Dean or John Mitchell?"

An American jury, located a decent distance away from the hotbed of hatred that the nation's capital has become, has answered that question with stunning finality.

The next question is equally clear-cut. On the basis of the charges we have been hearing for more than a year, and on the examination of the evidence to be supplied this week in all its agonized tardiness, whom do you believe—John Dean or Richard Nixon?