

NYTimes JUN 23 1974
Ervin Staff Says Mitchell Bypassed Aides on Hughes

By JOHN M. CREWDSON
Special to The New York Times

WASHINGTON, June 22 — John N. Mitchell, as Attorney General, bypassed the Justice Department's Antitrust Division four years ago in giving the Howard R. Hughes organization approval to purchase a casino-hotel in Las Vegas, Nev., according to evidence gathered for the Senate Watergate committee.

A report by the committee's staff says that a "secret, ad hoc" decision was made by Mr. Mitchell without analysis by or knowledge of the department's antitrust lawyers. The report terms it "a classic case of governmental decision-making for friends" of the Nixon Administration.

The 47-page report, circulated to committee members yesterday and obtained by The New York Times today, discusses negotiations with Mr. Mitchell aimed at obtaining permission for Mr. Hughes, the billionaire industrialist, to buy the Dunes hotel. The negotiations were conducted by Richard G. Danner, "the courier" who delivered \$100,000 in Hughes funds to Charles G. Rebozo, President Nixon's close friend, the report says.

The committee staff said that it had been unable to corroborate testimony by Robert A. Maheu, the former head of Mr. Hughes's Nevada operations, linking part of the \$100,000 payment to the Mitchell decision. But it said that the Dunes hotel case "strongly suggests a connection between the contribution and Federal action affecting Hughes."

The Watergate committee, headed by Senator Sam J. Ervin Jr., Democrat of North Carolina, has been looking into the circumstances surrounding the mysterious \$100,000 payment to Mr. Rebozo in 1970 in connection with its broader and nearly completed inquiry into Presidential campaign practices in the 1972 election. Part of that investigation has involved a search for something that may have been given in return for the money, including the Dunes decision cited by Mr. Maheu.

Mr. Rebozo, Mr. Danner and

Continued on Page 38, Column 4

Continued From Page 1, Col. 6

Mr. Mitchell all denied "any connection between the contribution and the Dunes case," the staff reported.

According to the staff report, written by James Moore, an assistant majority counsel to the committee, Richard W. McLaren, who headed the Antitrust Division at the time, testified in a private interview that Mr. Mitchell never told him of giving his approval in March, 1970, for Mr. Hughes to add to the five casino-hotels he then owned in Las Vegas.

In 1968, the Antitrust Division warned the Hughes organization, which then controlled four such hotels, that it would consider any additions to the Hughes's Las Vegas holdings to be a violation of Section 7 of the Clayton Antitrust Act because it would increase Mr. Hughes's share of resort hotel rooms in Las Vegas to beyond the percentages of market control allowed by the department's merger guidelines.

Mr. Hughes was subsequently permitted to buy a fifth hotel, the Landmark, under the so-called "failing company doctrine." This permits acquisitions

that would otherwise violate antitrust guidelines where the only alternative for the acquired property is financial collapse.

In late 1969, it became possible for Mr. Hughes to seek to purchase the Dunes, too. The report says that at that time some people thought he wanted "to buy up all of Las Vegas."

Mr. Maheu was dismissed by Mr. Hughes at the end of 1970 and is now suing him for libel over the billionaire's charge that his former aide "stole me blind." Mr. Maheu has testified that Mr. Hughes, wary of further direct dealings with the Antitrust Division, had told him to send Mr. Danner to seek approval for the Dunes deal directly from Mr. Mitchell.

Mr. Danner, a longtime friend of both President Nixon and Mr. Rebozo, first met Mr. Mitchell while serving as an aide in the 1968 Nixon Presidential campaign, the report said.

Mitchell Logs Cited

Mr. Danner, then the manager of the Hughes-owned Frontier hotel in Las Vegas, now heads the Sands hotel, also a part of the Hughes chain. He told the committee that he had three meetings with Mr. Mitchell, in January, February and March, 1970.

Mr. Mitchell, the report says, testified that he recalled only one meeting with Mr. Danner and Antitrust Division officials in the summer of 1970 and "remembers almost nothing about the Dunes" case. But logs of his appointments obtained by the committee staff support Mr. Danner's recollection of the three meetings, all of which appear to have been attended only by Mr. Mitchell and Mr. Danner, the report says.

The argument for the purchase that Mr. Danner put to Mr. Mitchell entailed expanding the definition of the relevant "market" as it applied to Mr. Hughes. Instead of all resort hotel rooms in Las Vegas, the market, under the Danner plan, would include either all hotel and motel rooms in that city, or all guest rooms in the state of Nevada.

Had the Justice Department adopted either of these alternatives, according to the staff report, the action would have permitted Mr. Hughes's acquisition of the Dunes without violating the merger guidelines.

According to Mr. Danner's testimony, at the meeting in January Mr. Mitchell asked him for statistics on the concentration of hotel rooms in Las Vegas. The statistics were produced at a meeting Feb. 26, along with the proposed redefi-

nitions of the Las Vegas hotel "market," the report says.

In early March, Mr. Mitchell telephoned Mr. Danner and asked to see him when next in Washington, and the two men met March 19, according to Mr. Danner. At that time, he said, Mr. Mitchell told him, "From our review of these figures, we see no problem. Why don't you go ahead with the negotiations [for the Dunes]?"

The negotiations between the Hughes interests and the Dunes owners progressed until May, 1970, when, for financial reasons, they collapsed.

The committee staff reported that, although the statistical memorandum provided by Mr. Danner had been found in the Antitrust Division's file on the Dunes case, there was no indication how it had got there.

"Significantly," the report continues, "there is no record of the Danner-Mitchell meeting, which no one else attended, in the Dunes file."

"Further, none of the Antitrust Division lawyers who knew or might have known about the case has any recollection of meeting with Danner on the Dunes, and none of them ever learned of the Danner-Mitchell meetings."

McLaren Statement

In addition, Mr. McLaren testified that he first learned of Mr. Hughes's wish to take over the Dunes in early March, 1970, two months after Mr. Danner has said he first raised the possibility in the Attorney General's office.

Mr. Mitchell told him, Mr. McLaren recalled for the committee staff, that Nevada's Governor, Paul Laxalt, was urging the Justice Department's approval of the takeover on the ground that the Dunes was owned by gangsters and that Mr. Hughes would "clean it up."

Mr. McLaren's last discussion of the matter with Mr. Mitchell, he said, was on March 12, when he said he told Mr. Mitchell the purchase would violate the merger guidelines. "The meeting concluded without Mitchell indicating what his position on the purchase would be," the report said, adding that one week later, he gave his approval to Mr. Danner.

At the time of the Dunes negotiations, Mr. Danner, who was hired by Mr. Maheu in February, 1969, as the Hughes empire's emissary to the Nixon Administration, was also occupied with the delivery of \$100,000 in \$100 bills to Mr. Rebozo.

THINK FRESH:
THINK FRESH AIR FUND.