

# Mitchell, Stans Trial Is Halted

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NEW YORK, March 1—

The criminal trial of John N. Mitchell and Maurice H. Stans was adjourned here today almost as soon as it had begun to permit the judge to consider a defense motion for a mistrial.

Washington lawyer Walter J. Bonner, chief counsel for Stans, jumped to his feet as soon as the government had outlined its case to the jury, demanding, "I move for a mistrial. I move for a mistrial."

U.S. District Court Judge Lee P. Gagliardi immediately said he would give Bonner's motion "serious consideration."

What upset Bonner and the judge was prosecutor James W. Rayhill's comparing the trial jury with the grand jury that indicted Mitchell and Stans.

"He indicated, contrary to your instructions to this jury," said Bonner, his voice rising, "that because people just like this petit jury had indicted these two men, that they should draw a natural inference from that fact that these men were guilty."

"This is an outrageous thing to do in this courtroom, and this case should be dismissed."

The judge returned to the courtroom several hours later, with the jury out of the room, and canceled the defense's scheduled opening statements to the jurors.

Instead, he ordered the

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prosecutors to defend what the judge termed "apparent excess" in their opening statement in the trial of Mitchell, former Attorney General, and Stans, former Secretary of Commerce, on charges of conspiracy, obstruction of justice and perjury.

The problem with Rayhill's opening statement concerned six counts of perjury against Mitchell and Stans. In effect, he was trying to tell the jurors that Mitchell and Stans were just two men and that the jury should weigh their words like those of any witnesses and not, as he said, as "once two of the most powerful men in this country and once two of the most important advisers to the President."

Rayhill—a trim, diminutive 35-year-old graduate of Yale law school—at one point told the jurors.

"As you sit through this case listening to the testimony and observing how the witnesses behave, consider how essential it is that a jury be given truthful testimony under oath.

"It is only by getting witnesses who tell the truth that our system of justice can work, and as you listen to the witnesses testifying before you, you put yourselves in the place of the grand jurors who investigated this case, citizens like yourselves . . ."

At this point, Bonner interrupted.

"I object to this," he said.

"Sustained," said Judge Gagliardi.

"I vigorously object to it," said Bonner, shaking his head.

Earlier in his statement to the jurors, who were picked very carefully to avoid persons who might be biased by publicity given this and other cases related to the Nixon administration, Rayhill said that "a grand jury made up of people much like yourselves sat in this courthouse and began to investigate these crimes."

"John Mitchell and Maurice Stans were questioned under oath before that grand jury . . . (and) the grand jury indicted both Mitchell and Stans on six separate counts of lying to the grand jury."

The clear implication of Rayhill's statements, Bonner in-effect told the judge, was that the grand jury had found the two of them guilty and this jury should, too.

After a lunch break, Judge Gagliardi came into court and said, sternly, "I

am gravely concerned by the apparent excess on the part of the prosecutor in bringing into his opening statement—the function of which is to forecast the evidence to be adduced—references to the grand jury and its functions and his personal conclusions, as though he were a witness in the matter."

He then ordered Rayhill and three other assistant U.S. attorneys to file a brief with him to support Rayhill's opening remarks, and gave Mitchell and Stans' lawyers time to respond after that.

Then he called the jury back into the court and told them he was adjourning the trial until 10 a.m. Monday.

But before letting them go, he told them:

"You have not heard any evidence in this case. You have merely heard the government's opening statement which I have told you is not evidence . . ."

"During the course of his opening statement, Mr. Rayhill made references to the grand jury and people who compose it, the grand jury that returned the indictment."

"As I have told you on several occasions, an indictment is merely an accusation; it is not evidence of anything. These defendants, like all defendants, are protected by the presumption of innocence. The burden is on the government throughout to establish every essential element of the crime charged by proof beyond a reasonable doubt . . ."

"A grand jury merely considers whether an accusation shall be made. They do not consider the question of innocence or guilt."

"In proceeding before the grand jury the witnesses are examined only by the prosecution. There is no cross-examination, nor is a judge present to rule upon the admission of evidence . . ."

"This is the trial . . . You jurors are the ones to decide that issue on the basis of the evidence introduced in this court. You, and you alone, are the judges of the facts."

Judge Gagliardi then placed the jurors back in the custody of U.S. marshals for the weekend.

Rayhill's opening statement, which took slightly under two hours, revealed a number of new aspects of the case.

In the case, the government is alleging that Mitch-

ell and Stans tried to impede an investigation of international financier Robert L. Vesco by the Securities and Exchange Commission in exchange for a secret \$200,000 payment in \$100 bills from Vesco, and then tried to cover up the fact of the intervention and of the payment.

"This case," Rayhill told the jury, "is about a contribution of \$200,000 in cash, a briefcase full of \$100 bills to buy the political influence of John Mitchell and Maurice Stans."

"This case," Rayhill said, "is not about a situation where a congressman legitimately helps one of his constituents. This is not a case where someone's Social Security check has been lost for some reason and the individual seeks help in finding that check. Neither Mitchell nor Stans were Vesco's congressmen nor even Vesco's lawyers. The purpose of the conspiracy was to get \$200,000 in cash into the campaign and keeping anyone from finding out about it."

Rayhill said that the government had promised immunity to New Jersey politician Harry L. Sears — who originally was indicted with Mitchell and Stans in the case, along with Vesco—in exchange for his testimony.

Sears, said Rayhill, "was bought and paid for by Robert Vesco. He was in Vesco's pocket."

He said that Sears had started meeting with Mitchell on Vesco's behalf as early as July 6, 1971, in return for a \$5,000-a-month, fee or per year, which "exceeds Sears' entire net income for the previous year."

Sears was so effective in using his old friend Mitchell, Rayhill said, that at one point a secret SEC report on Vesco ended up in Vesco's hands, having gone from then SEC chairman William J. Casey to Mitchell to Sears to Vesco.

Rayhill said that, at a meeting between Vesco and Stans on March 7, 1972, "Vesco very carefully tells Stans that he wants to make a sizeable contribution but he has some problems with the SEC. He also talks about his need to see the top officials at the SEC with his problems."

"In response, Stans tells Vesco that there should be no problems in getting to see Casey and that Vesco should see Mitchell on his SEC problem."





United Press International

Former Attorney General John N. Mitchell arrives at federal court in New York for his trial on charges of influence-peddling during the 1972 campaign.

Vesco promised to give \$250,000 before April 7 in cash—as Stans had asked—and “maybe \$250,000 at the end of the campaign if they need it,” said Rayhill.

Rayhill said that on the day Vesco’s \$250,000 came into the United States, “that same evening, April 6, John Mitchell invites William Casey . . . to his apartment in Washington for a drink. This is the first and only time that Casey is ever invited to Mitchell’s home.”

Casey is now under secretary of state for economic affairs, and his nomination as head of the Export-Import Bank is spending.

Rayhill said Stans, after getting the money on April 10, told his chief assistant at the Finance Committee to Re-Elect the President, Hugh Sloan, that he did not know where the money had come from.

That afternoon, Sears was meeting with Casey about Vesco’s SEC problems, Rayhill said.

Rayhill also said that

Casey’s successor as SEC chairman, G. Bradford Cook, lobbied with both Stans and Mitchell to get the chairmanship after cooperating with them on helping keep the Vesco campaign payment a secret.

Cook resigned from the SEC four days after the indictment was brought here last May 10.

“The government will prove,” said Rayhill, “that the means used by these defendants in committing these crimes were neither crass nor crude. The influence exerted by Mitchell and Stans was subtle and sophisticated.”

“They took place over drinks at Mitchell’s apartment during a weekend, goose-hunting in Texas, in a private club in New York, over lunch at the White House.

“Everything was underplayed, but the government will show that the goals were always the same: concealment of the contribution and cover up the help that they had given Vesco.”