

Mistrial Move by Mitchell,

New York

A U.S. District judge yesterday denied a motion by former Nixon cabinet members John Mitchell and Maurice Stans for a mistrial in their trial on charges of conspiracy, obstruction of justice and perjury.

Judge Lee Gagliardi ruled that the government prosecutor had not deliberately tried to establish the guilt of the defendants by telling the jurors they were "the same kind of people" as those who had indicted the defendants.

The defense attorneys for the former attorney general and the ex-secretary of commerce had claimed that the remark gave "an inference of guilt."

The government is attempting to prove that the

two former cabinet members tried to influence a Securities and Exchange Commission investigation of financier Robert Vesco in return for a \$200,000 contribution to President Nixon's re-election campaign.

In his opening statement to a jury of eight men and four women, Stans' defense chief, Walter Bonner, said his client twice had voluntarily gone before the grand jury that indicted the two former cabinet members.

"Maurice Stans is going to rise again, and he is going to speak a third time, and this time he'll speak to you," he declared in a 55-minute address to the panel.

Later, Mitchell's defense lawyer, Peter Fleming Jr., told newsmen there would be no comment on whether

his client would testify.

The first witness as the third week of the trial began, was recently appointed SEC Commissioner Irving M. Pollack. He testified for the government on the origins and background of the Vesco investigation.

"Did Mr. Mitchell ever attempt to influence you personally on any case under your jurisdiction?" Pollack was asked on cross-examination by Fleming.

"No sir," replied the witness, who was appointed SEC commissioner February 14, after 27 years with the federal agency.

In his opening Friday, Assistant United States Attorney James Rayhill claimed that Mitchell and Stans had schemed with Vesco to "sell political influence for \$200,

000 in cash."

In a 45-minute statement in Mitchell's behalf, Fleming said the government's case was based on "suspicion and innuendo."

Aside from a fleeting introduction at a political gathering, Fleming said Mitchell had never met Vesco.

"There is not a single speck, a fragment, however you describe it, of evidence you'll hear or could hear that John Mitchell did anything to fix, to stop or to influence an investigation of Robert Vesco," declared Fleming.

"John Mitchell did not know Robert Vesco, he never had done business with Mr. Vesco's company . . . Would this man risk a lifetime of hard work, years of

Stans Denied

public service, love of country, to fix a case for a man he didn't even know?

"There's no obstruction of justice in this case, no fix, no illegality, no corruption."

Fleming sought to soften the impact of the \$200,000 figure on the jury's mind, declaring: "That \$200,000 was part of \$60 million that was contributed by the people of this country, obviously some of them rich, obviously some of the poor, to support the re-election of the President."

Fleming spoke sarcastically of the key government witnesses whom he said escaped prosecution in the case because of their willingness to testify against Mitchell and Stans. Among those he listed was John W. Dean III, ousted as White

House counsel in the aftermath of the Watergate scandal.

Bonner brought a mist to Stans' eyes when he described the former commerce secretary as burdened throughout the campaign by the illness of his wife of 40 years. The lawyer said she was near death at times from a rare blood disease.

While ranging the nation on behalf of Mr. Nixon's re-election, Bonner went on, Stans spent every minute he could "with the woman he loved."

"We'll prove to you," the lawyer declared, "that there was no payoff or fix in this case, and that Maurice H. Stans, an honorable, decent man, a man of integrity, love, loyalty, is innocent of

every accusation that has been leveled at him in his 66th year."

Associated Press