

McCormack Jury Deposition

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The prosecutor who accepted a deposition from then-House Speaker John W. McCormack said yesterday there is "no parallel" between that "courtesy to an old man" extended three years ago and President Nixon's request last summer that former Commerce Secretary Maurice H. Stans not be compelled to go before the Watergate grand jury.

The comparison was made by John D. Ehrlichman on Monday before the Senate Watergate committee in answer to "the question of propriety of the manner in which Mr. Stans' testimony

was presented to the grand jury."

Robert M. Morgenthau, who was U.S. attorney in Manhattan during the investigation of former McCormack aide Martin Sweig, said the House speaker was not asked to come to New York to testify. "It was our decision," said Morgenthau, and "not an assertion of privilege by the speaker."

Morgenthau, a Democrat now in the private practice of law, said because McCormack "was not a prospective defendant" he was asked only to submit to a sworn statement that was taken in the speaker's office at the Capitol on Jan. 7, 1970

"His age also was a factor," said Morgenthau. "It was winter, Congress was in session, and all that combined led to the decision."

The speaker, who was then 79, also had been interviewed before the deposition was taken, "so we knew what he was going to say," Morgenthau said.

Morgenthau said the "courtesy" of depositions had been extended to several other "nonpublic" elderly persons during his tenure as U.S. attorney.

He noted that "those officials we wanted to have before the grand jury were subpoenaed, and they showed up." Morgenthau

specified that then Securities and Exchange Commission Chairman Hamer H. Budge testified "over his rather strenuous objections."

McCormack did testify as a prosecution witness at the trial, which resulted in the conviction of Sweig, his longtime administrative aide, on a charge of perjury.

Sweig, who was accused along the late Nathan Voloshen of using the speaker's office as the base for influence peddling, served about one year in the federal prison at Lewisburg, Pa. Sweig was paroled July 17, 1972.

In Stans' case, the former chief Nixon campaign fund

is Defended

raiser was allowed to give a deposition, which was forwarded to the grand jury, rather than appear in person before the panel. The White House requested the change in procedure, Ehrlichman said, because it did not want Stans subjected to possible embarrassment from press coverage.

In drawing the comparison between McCormack and Stans, former White House aide Ehrlichman said "the question has been decided by the U.S. Court of Appeals" in response to Sweig's appeal. Sweig's lawyers charged that the grand jury had acted illegally in

permitting the speaker to make a deposition.

The Second District U.S. Court of Appeals, in its decision of April 14, 1971, said it found Sweig's complaint about McCormack's deposition "wholly without merit."

The Court noted that "there are very few persons for whom it could have been more difficult and inconvenient to appear before the grand jury in person than the speaker of the House of Representatives, and hence it was clearly permissible for the grand jury to use the transcript of interviews with him in returning the indictment."