

Judge Weighs Delay in Mitchell and Stans

DEFENSE ADVISED TO BE PREPARED

But Lawyers in Motions Say
They Don't Have Enough
Time to Get Ready

By ARNOLD H. LUBASCH

A Federal judge told lawyers for John N. Mitchell and Maurice H. Stans yesterday that the two former Cabinet officers should be prepared for trial on Sept. 11, but added that he was seriously considering their motions for a delay.

Judge Lee P. Gagliardi reserved his decision on defense motions in the obstruction-of-justice case after he had heard more than three hours of argument on the many pretrial motions in Federal Court here.

Mr. Mitchell and Mr. Stans are accused of interfering with a major fraud investigation of Robert L. Vesco, a fugitive financier who secretly contributed \$200,000 in cash to President Nixon's 1972 election campaign.

Judge Gagliardi indicated that he would approve the prosecution's agreement to a defense motion for a separate trial of another defendant, Harry L. Sears, a Vesco associate who was Republican leader of the State Senate in New Jersey.

The prosecutors, who said that Mr. Sears had made statements about the other defendants that could not be used in a joint trial, want his case to follow the trial of Mr. Mitchell and Mr. Stans.

Said He Delivered \$200,000

Mr. Sears has acknowledged that on April 10, 1972, he delivered \$200,000 from Mr. Vesco to Mr. Stans, a former Secretary of Commerce who was then finance chairman of the President's election campaign.

A few hours after the cash delivery, according to the prosecutors, Mr. Mitchell set up a meeting between Mr. Sears and top officials of the Securities and Exchange Commission, which was conducting the Vesco investigation.

Mr. Mitchell was Attorney General and then campaign director for President Nixon during the alleged conspiracy to obstruct the investigation of Mr. Vesco, who was eventually accused of a scheme to loot \$224-million from the crumbling mutual-fund complex that Bernard Cornfeld had founded.

Trial in Vesco Case Beyond

Sept. 11

In arguing the motions before Judge Gagliardi yesterday, the defense lawyers contended there was no allegation that Mr. Mitchell had intended to quash the Vesco investigation or that Mr. Stans had obtained the cash contribution to fix the case.

The prosecutors argued that the defendants had corruptly sought to obstruct the investigation by the S.E.C.

Indictment Cited

They said the indictment of the defendants alleged that Mr. Mitchell had caused John W. Dean 3d, who was then the White House counsel, to ask William J. Casey, chairman of the S.E.C., to block facts about the secret Vesco contribution from coming out in the investigation.

The team of prosecutors, consisting of John R. Wing, James W. Rayhill, Kenneth R. Feinberg and John A. Lowe, urged the judge to press forward with the scheduled trial.

But a team of eight defense lawyers insisted that they did not have sufficient time to prepare for it and that the case should be dismissed or delayed.

"I don't see any conceivable way we can be ready for trial on Sept. 11," Peter Fleming Jr. asserted for Mr. Mitchell as he implored the judge to adjourn the trial date until at least Nov. 1.

The defense lawyers continued to urge Judge Gagliardi to dismiss the charges completely on the ground that the Government had generated massive "prejudicial publicity" about the defendants in connection with the Watergate scandal.

In rebuttal, the prosecutors denied that they had "leaked" news articles to the press and maintained that an impartial jury could be selected for the trial next month.

Would Question Jurors

Judge Gagliardi observed that the best way to settle the jury issue was to "call jurors into the box" and question them to determine if the publicity in the case had affected their impartiality.

The defense lawyers argued that "in the public mind Watergate and those connected with it had become symbols of corruption and malfeasance in high office."

Walter J. Bonner, a lawyer for Mr. Stans, complained that the Government had subjected the defendants to relentless pressure, including long questioning in the Senate's televised Watergate hearings.

The judge did not indicate when he would decide on the motions, but he directed the prosecution to produce a "bill of particulars" by Aug. 13 to provide the defense with additional information on the charges in the case as well as the names of co-conspirators who have not been named as defendants.