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**Judge Refuses Plea by Defense
To Delay Mitchell-Stans Trial**

By ARNOLD H. LUBASCH

Federal Judge Lee P. Gagliardi said yesterday that the trial of former Attorney General John N. Mitchell and former Commerce Secretary Maurice H. Stans would start on Sept. 11.

The judge, who will preside at the obstruction-of-justice trial, said in United States District Court here that he had decided to deny the defense's motion for a delay and that he would provide a written decision later.

Mr. Mitchell and Mr. Stans are charged with obstructing a major fraud investigation of Robert L. Vesco, a fugitive New Jersey financier, in return for Mr. Vesco's secret \$200,000 cash contribution to President Nixon's 1972 election campaign.

Defense lawyers asked for the case to be dismissed, delayed or moved from Federal Court here on the ground that the prosecution had generated prejudicial publicity, but Judge Gagliardi indicated that he would reject the requests.

"Basicall this is a very simple case," the judge said, as defense lawyers repeated their requests for more time to prepare for the trial.

Judge Gagliardi added that he was "very seriously considering" the defense's request to sever perjury charges from the trial, which could weaken the prosecution's case and require a separate trial on the alleged perjury.

Six Counts of Perjury

Mr. Mitchell and Mr. Stans are each charged with six counts of perjury in their testimony to a Federal grand jury here. They also face one count of conspiracy and three counts of obstructing justice in the Vesco case.

The defense wants the perjury counts severed from the

rest of the case on the ground that the grand jury testimony came after the alleged conspiracy had been completed and that it should not be considered at the same trial.

Defense lawyers also complained that Mr. Mitchell and Mr. Stans had been compelled to testify in the Senate's televised Watergate hearings, and that massive adverse publicity resulted for the two former Cabinet officers.

The prosecution has consented to a defense motion in the Vesco case to sever another defendant, Harry L. Sears, former Republican leader of the New Jersey State Senate.

Mr. Vesco, who was indicted with them on May 10, left the country during the Federal investigation and has thwarted efforts to extradite him from Costa Rica, where he has vast investments.

Dismissal Sought

The decision to adhere to the Sept. 11 trial date for Mr. Mitchell and Mr. Stans was disclosed by Judge Gagliardi at the end of an all-day hearing on one of the defense motions to dismiss the case.

Walter J. Bonner, a lawyer for Mr. Stans, argued at the hearing that the charges against the former Commerce Secretary should be dismissed on the ground that the prosecution had violated an attorney-client privilege in the case.

Mr. Bonner contended that "overzealous prosecutors have overstepped their bounds" by obtaining testimony and documents from Kenneth W. Parkinson, a lawyer who represented Mr. Stans in several other matters.

The prosecutors, James W. Rayhill and John R. Wing, testified at the hearing that they had asked Mr. Parkinson about his personal knowledge of the secret Vesco contribution and that they had not obtained anything that violated the legally protected attorney-client relationship.

Mr. Parkinson testified at the hearing that he had given the prosecutors some material, which he believed was not protected by the attorney-client privilege, after Mr. Rayhill had told him it would be a "tragic mistake" if he did not tell the truth.

"I was angry, outraged," Mr. Parkinson said, "that he was challenging my credibility so directly."

Judge Gagliardi said he would rule later on the defense motion to dismiss the case or suppress the information obtained from Mr. Parkinson by the prosecution.