

2 NIXON EX-AIDES FACE TRIAL TODAY

But Case Against Mitchell
and Stans May Be Put Off
in Dispute on Dean Tape

By ARNOLD H. LUBASCH

An extraordinary criminal trial of John N. Mitchell and Maurice H. Stans is scheduled to start here today, but it may be postponed because of a disputed White House tape recording.

Lawyers for the two former members of President Nixon's Cabinet and of his re-election campaign have subpoenaed an April 15 tape in which John W. Dean 3d, former White House counsel, reportedly told the President that he was seeking immunity from prosecution in exchange for testimony against Presidential aides.

Federal prosecutors later requested a postponement of the Mitchell-Stans trial in Federal District Court until Jan. 7 to provide time to determine if the White House would produce the April 15 tape involving Dean, a crucial witness, who could be barred from testifying if the tape is withheld.

Tape Called Necessary

Judge Lee P. Gagliardi has not yet issued a decision on whether he will postpone the trial on charges that the defendants obstructed a Federal investigation in return for a secret \$200,000 cash donation to the President's re-election campaign last year.

The lawyers for former Attorney General Mitchell and former Commerce Secretary Stans argued that they need the White House tape for cross-examining Dean to challenge his motives and credibility as a witness.

The prosecutors tried to quash the subpoena on the ground that the tape was not relevant to the Mitchell-Stans case, but Judge Gagliardi ruled last Thursday that the tape should be produced for his private examination to determine its relevancy.

Under the judge's ruling, Dean could be prevented from

testifying if the prosecutors failed to provide any of his relevant prior statements in the Government's possession, including any tapes that the President withheld under executive privilege.

Comment by Cox

Archibald Cox, the ousted special prosecutor for the Watergate investigation, said at a Washington news conference Saturday that he had been informed that the White House might provide a transcript of the tape pertinent to the Mitchell-Stans trial.

If this transcript is turned over to Judge Gagliardi, it might enable him to determine whether the tape is relevant and whether Dean can testify, possibly clearing the way for the trial to start.

But the White House said Sunday that the President's plan to release a summary of the tapes for the Watergate investigation would probably take two or three weeks to complete, which could delay the trial here.

In requesting the trial's postponement, the prosecutors told Judge Gagliardi last Friday that the White House had refused to turn over any tapes "at this stage."

'Critical Witness'

John R. Wing, a prosecutor who described Dean as a "critical witness" for the Government, said that "we cannot afford to risk trying this case" without the testimony of the former White House counsel.

Dean pleaded guilty in Washington Friday to having conspired to obstruct justice in a plot to cover up the Watergate burglary and bugging scandal.

He was named earlier as a co-conspirator, but not as a defendant, in the Mitchell-Stans case here, and was expected to testify about an alleged scheme to obstruct an investigation of Robert L. Vesco, a fugitive financier, who secretly contributed \$200,000 to the President's re-election campaign.

Impropriety Charged

According to the indictment announced last May 10, former Attorney General Mitchell had Dean communicate with William J. Casey, then chairman of the Securities and Exchange Commission, who is now Under Secretary of State for Economic Affairs. The indictment alleged that the Dean contract was an attempt to postpone S.E.C. subpoenas for Vesco employees to conceal facts about the financier's \$200,000 contribution.

Dean's testimony could also prove important on some perjury counts against Mr. Mitchell and Mr. Stans because they allegedly lied to the grand jury about their discussions with him.

Dean might also provide other significant testimony at the trial because he was considered a Mitchell protégé who could possess confidential information about the former Attorney General.

The Mitchell-Stans case represents the first indictment of former Cabinet officers since the Harding Administration almost half a century ago.