

# MITCHELL TRIAL PUT OFF TO JAN. 7

Prosecution Given Time to  
Resolve Tapes Problems

By **ARNOLD H. LUBASCH**

A dispute over White House tape recordings delayed the scheduled trial yesterday of former Attorney General John N. Mitchell and former Commerce Secretary Maurice H. Stans on charges that they obstructed a major investigation and lied about it to a grand jury.

Judge Lee P. Gagliardi convened the Federal District Court here promptly at 10 A.M., when the trial was supposed to start, but he postponed the case until Jan. 7 to give the prosecution time to resolve legal difficulties about the tapes.

The prosecutors told Judge Gagliardi that the White House had now agreed to tell them within two weeks about what material the President would make available for the Mitchell-Stans trial, which could be seriously threatened if required evidence was withheld.

Later yesterday, President Nixon agreed to turn over White House tapes to a Federal judge for the Watergate investigation in Washington, but it was not clear if this would settle the issue for the trial here.

### Subpoenaed by Defense

The White House said last Friday that it refused "at this stage" to provide tapes and other material that the Mitchell-Stans defense had subpoenaed for use in attacking the motives and credibility of John W. Dean 3d, the President's former counsel, and other key witnesses at the trial.

Judge Gagliardi had ruled that the prosecutors could not call Dean and possibly other witnesses if the Government failed to provide relevant material, even if it involved tapes withheld under the President's claim of executive privilege.

After the White House decides what material to release, the judge said, he will hold a hearing to determine its adequacy and relevancy, possibly clearing the way for the trial to start.

Mr. Mitchell and Mr. Stans, who relinquished their Cabinet posts to head President Nixon's re-election campaign, were indicted last May 10 for allegedly interfering with an investigation of Robert L. Vesco, a fugitive financier, in return for his secret \$200,000 cash donation to the President's campaign last year.

Defense lawyers, who obtained a previous postponement of the trial, told Judge Gagli-

ardi that they consented to the prosecution's request to postpone it because of the White House tapes.

The lawyers for Mr. Mitchell had made it clear that their subpoena covered an April 15 tape in which John Dean reportedly told President Nixon that he was seeking immunity from prosecution to testify against White House aides.

They added that the subpoena also included a Feb. 28 tape on the ground that Dean had told the Senate Watergate committee that he had discussed the Vesco case with the President on that date.

In his testimony to the Senate committee, Dean said that the President had told him that he had read about the Vesco case in the morning paper and then "asked me what part, if any, his brother Ed had in the matter."

"I told him what I knew of his brother's involvement," Dean added, "which was that he was an innocent agent in the contribution transaction."