

LAWYERS TESTIFY IN MITCHELL CASE

Witnesses for Defense Tell
of Difficulties in Making
Preparations for Vesco

By MARTIN ARNOLD

Three lawyers testified for the defense in the Mitchell-Stans trial yesterday, and in the process the jurors learned a lot about the daily practice of law and the delicacies of lawyer-client relationships.

The lawyers were called in an effort to establish that Robert L. Vesco, a financier who is now a fugitive, was being harassed by the Securities and Exchange Commission, and that he sought relief from such harassment.

The defense also wanted to show that Mr. Vesco did not care whether or not his secret, \$200,000 cash contribution to President Nixon's re-election campaign was made public.

John N. Mitchell, the former Attorney General, and Maurice H. Stans, former Secretary of Commerce, are accused of perjury, conspiracy, and obstruction of justice for allegedly attempting to quash an S.E.C. investigation of Mr. Vesco in return for the \$200,000 contribution.

First, there was Sherwin J. Markman of the prestigious Washington law firm of Hogan & Hartson, testifying for the second day. On Friday and again yesterday Mr. Markman testified about what the defense considers the harassment of Mr. Vesco.

Issue of Harassment

It is a defense contention that S.E.C. harassment of Mr. Vesco led the financier to seek a meeting with William J. Casey, then chairman of the commission, and that at the very worst, Mr. Mitchell arranged such a meeting, which was perfectly legal and above board.

Yesterday, under cross-examination, however, Mr. Markman had to concede that at the very time he was representing Mr. Vesco, his client attempted on his own, without Mr. Markman's knowledge, to set up a series of meetings with S.E.C. officials.

Nor did he know, Mr. Markman said, until the day it happened that another Vesco attorney, who was a friend of Mitchell's, had, in fact arranged a meeting with Mr. Casey—through Mr. Mitchell—to discuss the Vesco case.

Next to testify was Martin Mensch, a lawyer, who had been hired by Richard Clay, then vice president of a corporation headed by Mr. Vesco. Mr. Clay had been subpoenaed to testify before the S.E.C. on Nov. 2, 1972.

Mr. Clay invoked the Fifth



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John E. Sprizzo, right, lawyer for John N. Mitchell, questioning Sherwin J. Markman, a lawyer for Robert L. Vesco, at the United States Court House here.

Amendment against self-incrimination. It is the Government's contention that he and several other witnesses in the case invoked the Fifth Amendment, the Fourth Amendment and Sixth Amendment because they had something to hide. The defense, on the other hand, said that they had called on the Fifth on the advice of their attorneys because the S.E.C. did not give these attorneys time to prepare their cases.

Lawyer's Account

Mr. Mensch said that he first met Mr. Clay about the case on Oct. 25, 1972, but that he was not actually retained to represent Mr. Clay until Nov. 1, 1972, the day before Mr. Clay was scheduled to testify.

Under those circumstances, as a lawyer, he had but one duty, Mr. Mensch testified, and that was to have his client plead the Fourth, Fifth and Sixth Amendments.

Mr. Mensch said that he was reached to represent Mr. Clay by Leonard Polisard, an attorney for one of Mr. Vesco's companies, and subsequently they agreed they would have lunch to discuss the case at a hotel.

Under cross-examination, by John R. Wing, the chief prosecutor, he recalled that Mr. Polisard had rented a room in the hotel "and I do remember having a quick sandwich in the room with him."

The luncheon was designed to precede a meeting he was going to have with Mr. Clay, he said. "Well, I tried to get as much information in as short a time as possible about the case, and—but I can't remember any specific matters that came up," Mr. Mensch testified.

Because he was not officially retained by Mr. Clay until Nov. 1, 1972, he did not have time to really study the case, he said.

Then to the witness stand came Arthur Liman, former general counsel to the Attica commission, and a partner in

the New York law firm of Paul, Weiss, Rifkind, Wharton & Garrison.

He was reached by Mr. Markman, Mr. Liman said, about representing Mr. Vesco on Oct. 11, 1972, but did not have his first conference with Mr. Vesco until Oct. 17, which was one day before the financier was scheduled to testify before the S.E.C.

Given no time to prepare his client, he said, there was little else that he could do but urge Mr. Vesco to plead the Fourth, Fifth and Sixth Amendments, and so he did.

Mr. Liman had some other things to say, however. He testified, for instance, that on Nov. 17, 1972, he told Stanley Sporkin, an S.E.C. investigator, that disclosure of Mr. Vesco's \$200,000 campaign contribution would not embarrass Mr. Vesco, but that it "might prove embarrassing to other people, but that it would be better that they should take their lumps."

Eight days before that, Mr. Liman testified, he told G. Bradford Cook, who testified at this trial, that disclosure of the contribution "could drag in extraneous names and be embarrassing to others, but it would not be prejudicial or embarrassing to Robert Vesco."

One charge against Mr. Stans is that he caused the S.E.C. to delete a paragraph in its formal complaint against Mr. Vesco, which was filed on Nov. 27, 1972, when in a civil action the commission charged Mr. Vesco and 41 others with looting \$224-million from a mutual funds company that Mr. Vesco was managing.

The paragraph Mr. Stans allegedly had omitted contained the first public hint about the \$200,000 contribution, and in the end it was in fact omitted from the formal S.E.C. complaint.

Mr. Markman, in his testimony, said that he had been told by Harry L. Sears, former New Jersey Senate Republican leader and a former Vesco attorney, that the S.E.C. was interested only in the "source"

of the \$200,000—that is, was it Mr. Vesco's personal money or was it corporate funds—and not the "destination" of the money.

Both Mr. Sears and Mr. Vesco have been indicted in this case, but the former was granted immunity to testify for the Government, and the latter has fled the country.