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**BOTH SIDES SUM UP
IN MITCHELL TRIAL**

**U.S. Says Defendants Felt
They Were Above Law**

By MARTIN ARNOLD

John N. Mitchell and Maurice Stans "sat at the very pinnacle of government in this country" and thought "they were above the law," the Government charged yesterday in its summation to the jury. The case is scheduled to go to the jury today.

In a long summation, subdued in tone, John R. Wing, the chief prosecutor, said that "what this case involves is telling the truth."

"Ladies and gentlemen, John Mitchell has no more right to lie under oath than you and I, and if you buy it, that John Mitchell has lied under oath and he gets away with it, what man in this country can have any respect for the law?" Mr. Wing asked.

Mr. Wing's summation,

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which went into the night, followed the summation of Peter Fleming Jr., Mr. Mitchell's lawyer, which started at 8:30 A.M. and concluded nearly five hours later. Mr. Stan's defense summation was on Tuesday.

In his summation, Mr. Fleming denounced the criminal conspiracy case against the criminal conspiracy case against the defendants as "a prosecutorial vision. A vision they set out to give life to. They have failed."

Former Attorney General Mitchell and, former Secretary of Commerce Stans are charged with perjury, obstruction of justice and conspiracy for allegedly attempting to impede a Securities and Exchange Commission investigation of Robert L. Vesco, a financier. Mr. Vesco, in return, was said to have given them a secret \$200,000 cash contribution for President Nixon's re-election campaign, which the two men led. The summation in behalf of Mr. Stans was delivered on Tuesday by Walter J. Bonner, his lawyer.

Mr. Vesco was also indicted in this case, but has fled the country. He and 41 others are accused of defrauding investors of \$224-million.

The day was perhaps a classic confrontation between two totally different types of lawyers. There was Mr. Fleming, on the one hand, emotional, rambling, acting moved one

moment by his client's plight, outraged the next by the Government prosecution.

On the other hand, there was Mr. Wing, so quiet that at times he could barely be heard; displaying at other times a sort of simmering anger; but mostly just lining up his contentions and marching them off toward the jury like so many soldiers on parade.

And from the expressions, on the jurors' faces as they sat through the hours, there was no way to tell which man and which method were scoring the heaviest.

No Man Above Law

"There exists in this country a principle that no man is above the law" was the way Mr. Wing started his summation. "It applies to you and to me, to Mr. Mitchell and Mr. Stans. They felt they were above the law—that it didn't apply equally to them."

The lectern in the courtroom is adjacent to, and at the end of the jury box. On Tuesday Mr. Bonner spoke from that position, yesterday Mr. Fleming spoke from there. When his turn came, Mr. Wing moved the lectern so that he was facing the middle of the jury box, not the far end.

"What we ask for is a true verdict," he told the jurors. "You are not asked to destroy people. You are asked to see the truth."

"Start out knowing for sure," Mr. Wing said. "One thing that can't be in dispute. Some people who came before you and raised their hand and took their oath have lied to you—make no mistake about it."

He then ticked off the Government witnesses, many of whom were reluctant, hostile witnesses, and reiterated that "somebody is lying to you for sure."

"Your job as jurors is simply to figure it out," he went on. "You're all experts. You do it every day in your life. Who is conning you? Who is not? Rely on your common sense."

Charges Ridiculed

The charges were ridiculed in his summation by Mr. Fleming, who said that on Nov. 27, 1972, the S.E.C. accused Mr. Vesco and 41 other persons in the \$224-million fraud complaint.

"This must be the only fix in modern times, or ancient times, or Biblical times, or prehistoric times, when the payoff was made in April and afterwards everything gets worse," Mr. Fleming said. "Vesco sure did get a lot for his money."

Mr. Wing, in countering, said that it was the defense that "wanted to make it a fix case"—that "it's a case of men trying to influence—to use their influence to try to influence the S.E.C."

This is not, Mr. Wing said, involving "a country road commissioner in Maryland. This is sophisticated work, done by sophisticated men."

Mr. Wing's entire summation was delivered without

notes, and as is his style, it was orderly, going from point to point, straight as a clothesline.

Mr. Mitchell had said from the witness stand, for instance, that in one of the meetings he had with Harry L. Sears, a former ranking New Jersey Republican and a Vesco associate, that the two men did not talk about Mr. Vesco, but only about New Jersey politics.

This was after Mr. Sears

had told Mr. Mitchell that Mr. Vesco planned to make a substantial contribution to the Nixon campaign and that Mr. Vesco was having trouble with the S.E.C., according to trial testimony.

"Can you believe it? Can you really believe it?" Mr. Wing asked, that the two did not speak of Mr. Vesco. "Mitchell wasn't Robert Vesco's friend; he wasn't his lawyer. He was the Attorney General of the United States."

Fleming Summation

In a rambling and often emotional summation that lasted nearly five hours, Mr. Fleming called the Government's case "a vision engendered in the heat of a terrible national trauma."

He referred to the Government's case as "Mulligan stew" and "chicken hash," as "mush" and as "an Easter egg hunt." It was, he said, "Alice in Wonderland," the "Wizard of Oz," "Christmastime," "a fairytale."

The thrust of the Mitchell defense, Mr. Fleming said, was embodied in two questions: Who do you believe, John Dean or John Mitchell? What was the Government's motive in bringing the case?

Mr. Fleming started his summation as the mist was lifting over the Federal Court House at 8:30 yesterday morning, in a courtroom that was only partly filled because of the hour.

It ended at 1:51 P.M., with the lawyer's voice cracking, as he appeared near tears, telling the jury:

"The duty of free men is to give freedom, unless they [the Government] prove their case to that point where you can live the rest of your life with it [the verdict]."

During the nearly five hours, he often spoke in a stream of consciousness, in phrases and incomplete sentences, breaking off a thought suddenly to shoot off in another direction. He stopped three times and asked the judge for a 10-minute recess.

'Makes No Sense'

"This case makes no sense," he told the jury. "I think you know that in your heart—and no-sense means not guilty. The Government of the United States may not be allowed to think that because it may have happened, it did. It is not Alice in Wonderland or the Wizard of Oz."

"This felony criminal case consists of a hash, a mess of evidence that would not have been brought by any prosecutor against the lowest County Commissioner, but it was brought," Mr. Fleming said.

Over and over again, like the refrain in a song, he referred to the case as the "Government's vision."

Mr. Fleming is a tall man, perhaps 6 feet 6, with graying hair that flops over his jacket collar at the neck. Leaning tall over the lectern, he said, "This case is about a prosecutor's vision which you may find was engendered in the heat of a terrible national trauma."

"A vision," he said, adding that "any fact that didn't fit the vision they didn't tell you about."

"Had Harry Sears not sought the golden calf of Robert Vesco none of us would be here," Mr. Fleming said. Mr. Sears, a former ranking New Jersey Republican and Vesco associate, had testified that he got in touch with Mr. Mitchell about Mr. Vesco's S.E.C. problems.

Mr. Sears was also a defendant in this case, but was granted in, in Mr. Fleming's words, "such broad immunity that even if he had admitted on stand that he killed his mother, he couldn't have been prosecuted."