

NYTimes APR 26 1974  
**Mitchell-Stans Case Is Given to the Jury**

**By MARCIA CHAMBERS**  
 A jury of nine men and three women began deliberations yesterday in the case against John N. Mitchell, the former Attorney General, and Maurice H. Stans, the former Commerce Secretary, accused of attempting to impede a Federal inquiry in return for a secret \$200,000 cash contribution to President Nixon's re-election campaign.

The historic case was placed in the panel's hands at 4:55 P.M., following a three-and-a-half-hour charge by Federal Judge Lee P. Gagliardi on the complicated legal instructions governing the conspiracy case.

The judge told the jury it must consider each count against each defendant separately.

Both defendants are charged jointly with one count of conspiracy and two counts of obstruction of justice, and each is charged with six counts of perjury. They face a maximum of five years in prison on each count if convicted.

"All parties stand as equals before the bar of justice," said the 55-year-old judge, who stood at the bench, his shoulders hunched, as he read his 136-page charge in Federal District Court.

"You, the members of the jury, are the sole and exclusive judge of the facts," the judge told the jurors, who had turned their chairs to face him. He urged them throughout to deliberate with "complete fairness

and impartiality" to either side.

Prior to the judge's charge, John R. Wing, the chief prosecutor, ended his six-and-a-half hour summation that had stretched over two days. His theme centered on the abuses of political power. Throughout most of his summation, the 37-year-old prosecutor was low-keyed, his words a study in understatement.

But as he neared the end of his summation, Mr. Wing became emotional, even passionate, sometimes shouting as he said:

"Ladies and gentlemen, this case is about something as simple as the truth. It is as simple

**Continued on Page 21, Column 4**



The New York Times/Marilyn Church  
**Federal Judge Lee P. Gagliardi charging jury at Mitchell-Stans trial.**

**Continued From Page 1, Col. 3**

as the Eighth Commandment 'Thou shalt not lie.' It is as simple as the law that says you cannot lie under oath no matter who you are, no matter how big or how small, you cannot do it.

"And the reasons you cannot is because that oath is like the cornerstone of the judicial system. Without the expectation that people will tell the truth, the system breaks down, it doesn't work, it's no good."

"These men, these defendants, are accused of giving false testimony to the grand jury, not once, not twice, but many times. I submit to you that the evidence in this case shows that Mitchell and Stans lied to the grand jury and that they lied to you," he said, as he stood behind a lectern, speaking without notes.

The defendants, who resigned their Cabinet posts to head the President's re-election campaign, were 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 from New Jersey.

In return Mr. Vesco was said to have given them a secret \$200,000 campaign contribution that was delivered to Mr. Stans's office on April 10, 1972, three days after a new law went into effect making it mandatory to report all contributions of more than \$100.

**Fugitive Financier**

Mr. Wing charged that the defendants had used their power and influence to obstruct the S.E.C.'s investigation into Mr. Vesco's far-flung financial holdings. Mr. Vesco was indicted

in the Mitchell-Stans case, but has fled the the country and is now believed to be in either Costa Rica or the Bahamas.

"I ask you to consider if there was nothing wrong, if there was nothing illegal about the attempt to influence, if there was no attempt to cover up the contribution, ask yourselves, why did they lie?" Mr. Wing said. "Ask it. Keep it in mind. What reason is there there?"

On that note, he ended his summation.

One of Mr. Wing's major points dealt with the memorandum in a manila envelope that Mr. Vesco sent to F. Donald Nixon, one of the President's brothers, in mid-November, 1972, just prior to the Nov. 27, 1972, when the S.E.C. filed its suit against Mr. Vesco. In the suit Mr. Vesco and 41 others were accused of defrauding investors of \$224-million.

The envelope was delivered to Mr. Mitchell, who lived at the Essex House and later turned it over to Harry L. Sears, a former Vesco lawyer who was once the Republican leader of the New Jersey State Senate. Mr. Mitchell admitted that he had thumbed through the memo, but said he never read it.

The unsigned memorandum, which the prosecution says was from Mr. Vesco, dealt with circumstances surrounding the Vesco cash contribution.

"The memo is an out-and-out threat addressed really to the President of the United States or Robert L. Vesco is going to do something to blow the whistle on the contribution and a number of other things," said Mr. Wing.

"John Mitchell got it. And John Mitchell read it. And if John Mitchell is the innocent man, as he says he is, he wouldn't have given it back to Sears," Mr. Wing said. The memorandum, said the prosecutor, "said nasty things about his [Mr. Mitchell's] close friends. It said Stans was asking for cash."

"Think about what an innocent, honest, law-abiding former Attorney General should have done with this obvious threat, with this clear attempt to interference with the

S.E.C.," Mr. Wing went on, and continued:

"Does he tell Bill Casey [former chairman of the S.E.C.] about it. Oh, no. Does he call Whitney North Seymour Jr. [former U.S. Attorney here] where the memo was delivered and tell him I got some evidence for you on an attempt to obstruct justice. Oh, no, John Mitchell had nothing to do with this thing. He can't. He's trying to keep it under wraps, keep it concealed."

"If it goes on to its intended source, then there is no guarantee that the intended source would play ball, then it might come out," Mr. Wing said. Mr. Sears, also indicted in this case, but given broad immunity from prosecution in exchange for his testimony, told the jury that he kept the manila envelope in a hall closet in his home until he subsequently turned it over to prosecutors months later.

Throughout Mr. Wing's summation, Mr. Stans sat at his defense table, with his hands clasped and a slight smile set on his face as the sunlight from the windows across the courtroom bathed his face.

Mr. Mitchell rocked in his chair. His face was expressionless.

Within moments after Mr. Wing ended his summation and the jurors had filed out for a recess, defense attorneys were on their feet demanding a mistrial. They angrily objected to several of the prosecutor's remarks. The judge denied their motions.

At 11:25 A.M. Richard J. McHale, a United States marshal, locked the courtroom doors and the judge began to read his charge. For the most part, it was a traditional charge. The jurors were told, for example, to view the facts in the case

"without bias, sympathy or prejudice."

Mr. Stans's defense settled finally not in the denial that there were discrepancies between his grand jury and trial testimony but in the plea that his mind was in a "haze" when he testified before the grand jury because his wife was seriously ill at the time. He could not, he said, remember certain events. He was, he said, "confused."

**Charge to Jurors**

The jurge told the jurors they could take a number of factors into consideration in weighing the perjury counts, which both sides consider the strongest case against the defendants.

"If for example, a defendant, by mistake, made an erroneous or incorrect statement, he would not be guilty of the crime of perjury. He may have given incorrect testimony because of surprise, confused, haste, inadvertance, honest mistake as to facts, carelessness and negligence. If so, he would not be guilty of knowingly and wilfully making a false statement," the judge said.