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A Historic Trial: Few in Such High

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U.S. Attorney Paul J. Curran, left, and John R. Wing, prosecutor in the Mitchell-Stans trial, making statements after the verdict was announced.

John N. Mitchell and Maurice H. Stans had, as the prosecutor said at the start of his summation on Wednesday, "sat at the very pinnacle of government in this country," and because of that what their 48 actual trial days lacked in drama was more than made up for in historic importance.

For in the history of the Republic, few men who have stood so high in government —Mr. Mitchell as Attorney General and Mr. Stans as Secretary of Commerce—have faced such serious criminal charges. Most recently, of course, Spiro T. Agnew resigned the Vice-Presidency, pleaded "no contest" to a single charge of income tax evasion and was fined $10,000 and sentenced to three years of unsupervised probation.

Before that, one has to go back to the Teapot Dome scandal and to Albert B. Fall, Secretary of the Interior under President Harding, who became the first Cabinet officer in American history to serve a prison term for illegal activities connected with government service. He was found guilty of bribery in 1929 as an outgrowth of Teapot Dome and was fined $100,000 and sentenced to one year in prison, which he served in 1931-32.

Harding Aide Tried

Harry M. Daugherty, President Harding's Attorney General, resigned in 1924 after being charged with conspiracy to defraud the Government, but his trial ended in a hung jury in 1927, and he was not retried.

The first such case involved Aaron Burr, Vice President from 1801 to 1805 under Thomas Jefferson. In 1807 Burr was charged with treason for his activities after he left office, but was acquitted.

While in office, Burr was indicted for sending a duel challenge in New York, and in New Jersey for murder in the killing in a duel in July, 1804, of Alexander Hamilton. Burr fled to Philadelphia and then to the South, but returned to Washington to serve out his term and even to preside in the Senate over the impeachment trial of Supreme Court Justice Samuel Chase.

President Andrew Johnson was impeached by the House of Representatives in 1868, but was acquitted in the Senate by one vote.

President Grant's Secretary of War, William Worth Belknap, was impeached by the House after he had resigned, and so the Senate quashed the proceedings on the ground that his resignation meant it lacked jurisdiction.

If the Mitchell-Stans trial had historic importance, it also had, in the minds of many, great symbolic importance. That is because it was the first trial of high officials in President Nixon's Administration to have at least a tenuous connection with the Watergate affair.

Many observers believed that acquittal of the two men who were leaders of the Nixon re-election campaign would seriously deflate the efforts to impeach President Nixon, while their conviction would perhaps give impetus to that effort.

This was the background when the trial commenced on Feb. 19, with jury selection in the old and somewhat ill-kept United States Court House in Foley Square. It was basically a simple criminal trial, devoid of great constitutional issues, interesting and important only because the defendants were named John Mitchell and Maurice Stans.

The basic issue was simply this: Did Mr. Mitchell and Mr. Stans — as the Government charged—attempted to impede a Securities and Exchange Commission investigation of Robert L. Vesco, a financier who is now a fugitive, in return for a secret $200,000 cash contribution by Mr. Vesco to the Nixon re-election campaign?

The two men were charged with conspiracy, obstruction of justice and perjury in that they allegedly lied to the grand jury that investigated the case and returned the indictment.

In the 10 weeks there were some dramatic moments. There was, for instance, the crisp morning of March 25, when President Nixon's former counsel, John W. Dean 3d—who was named a co-conspirator in this case but was not indicted—took the witness stand in a courtroom jammed with people, the very courtroom where Julius and Ethel Rosenberg stood trial.

Mr. Dean swore that Mr. Mitchell had spoken to him at least 19 times about the S.E.C. investigation of Mr. Vesco and had asked him to see if some subpoenas in the case could be delayed until after Election Day Mr. Dean swore that on one occasion Mr. Mitchell prevailed upon him to call William J. Casey, then chairman of the S.E.C., about the Vesco case.

People started lining up before 7 A.M. to hear Mr. Dean. Mostly they were young people, for somewhat surprisingly, Mr. Dean, who has pleaded guilty to a Watergate charge, has become something of a folk hero to many of the young.

While it was a trial that meandered along mostly, at times seemingly endlessly, it did have a few moments of high emotion, both real and feigned, as when Mr. Stans told the jury that he did not answer truthfully all the questions put to him by the grand jury, but that he had not been lying.

Mr. Stans said that at the time his wife, Kathleen had what was then thought to be a terminal blood disease, and his mind had been in a "haze."

In the end Mr. Stans's entire perjury defense was his wife's illness, and how that had affected his state of mind. This led Mr. Mitchell's attorney, Peter Fleming Jr., to gulp several times, as one does when one is fighting tears.

The Government contended that on March 8, 1972, Mr. Vesco met with Mr. Stans and promised to donate a large sum of money to the Nixon campaign if Mr. Stans and Mr. Mitchell would exert their influence on the S.E.C., and that Mr. Stans wanted the money in cash, in order to keep it secret, the implication being that somehow the money was to be used to help finance the Watergate break-in.

On April 10, 1972, at about 11 A.M., two Vesco associates — Harry L. Sears, a tall, stooped baldish man, who had once been the Republican majority leader of the New Jersey Senate, and Laurence B. Richardson Jr., then president of a company owned by Mr. Vesco, walked into Mr. Stans's Washington campaign finance office and placed on his desk an attaché case containing $200,-

Posts Have Faced Such Serious Charge

000 in $100 and $50 bills. This was the Vesco secret contribution. This fact was not in dispute.

What happened next was very much in dispute. Mr. Sears a most reluctant Government witness, testified that two hours later he visited his "friend" Mr. Mitchell, and told him that the $200,000 had been given to Mr. Stans; further, he swore that Mr. Mitchell then arranged for him to see on that day Mr. Casey, then chairman of the S.E.C., a man Vesco representatives had been trying to see for nearly a year previously.

Mr. Mitchell swore from the witness stand that he had no recollection of such a meeting with Mr. Sears on that date, even though his daily log of visitors, introduced as evidence in the case, listed Mr. Sears as a visitor.

The very date was important to the case, for April 10 was three days after a new campaign contribution law went into effect, requiring that campaign contributions of more than $100 be made public.

Prosecution Stand

The defense contended that if Mr. Mitchell made such a call to Mr. Casey and arranged for such a meeting on April 10, he was not breaking any law, but was merely doing what every Congressman would do for a constitutent, setting up a meeting with the proper Government official.

To this, the prosecution replied that, "in the real world" Mr. Mitchell, although not Attorney General then, was still a powerful and close adviser to the President, and that a call from one such "sophisticated man" to another "sophisticated man" was influence indeed.

What the defense tried to show, in essense, was that Mr. Mitchell and Mr. Stans carried on the business-as-usual of trying to elect a President, and what the Government tried to show was the misuse of influence and power.

For Mr. Mitchell, the bulk of his defense became, in the words of his attorney, Mr. Fleming, whose word do you believe: John Mitchell or John Dean; John Mitchell or Harry Sears; John Mitchell or G. Bradford Cook, former S.E.C. counsel, who admitted on the witness stand that five times previously he had committed perjury when testifying about this case to the grand jury and to two Congressional committees.

This trial, perhaps more than most, had its own particular rhythm. There were days it appeared that no conviction was possible, and there were other days when it appeared that no acquittal was possible, at least to some of the counts.

Ironically, the period between March 4 and April 3, when the Government presented its case, the prosecution appeared at its weakest, to many observers. That was because of the 40 Government witnesses presented then, nearly all were reluctant witnesses, hostile even to the Government.

But slowly that feeling changed, and most observers felt that if the Government merely held its own during its own presentation, it did considerably better than that when the time came to attack the defendant's defense.

Peter Fleming, Mr. Mitchell's lawyer, had told some members of the press that he thought the chief prosecutor, John Wing, was an able lawyer, not very articulate — an i sion he lost quickly when Wing stood up and with gi verve and controlled pass argued successfully against fense motions to dismiss case or declare a mistrial.

And it was generally agr by courtroom observers t one of the two best cross- aminations in the trial t place when Mr. Wing and Stans went at each others, two fine prize fighters. The e er was when Mr. Bonner c ducted the cross-examinat of G. Bradford Cook, a pro cutor witness who was forr counsel to the S.E.C.

There was also an appar underestimation of Judge Le Gagliardi.