

## Levi Says a Decision on Retrial Of Gurney Is Still to Be Made

WASHINGTON, Dec. 3 (UPI)—Attorney General Edward H. Levi said today that no decision had been made on whether to retry former Senator Edward J. Gurney, Republican of Florida, on corruption charges, despite a department statement to the contrary two weeks ago.

"The fact of the matter is the department has not made a decision on that point," Mr. Levi told reporters in visit to the Justice Department press room.

A department spokesman announced Nov. 21 that it had been decided to retry Mr. Gurney on two charges on which a Federal jury was unable to reach a verdict after his trial last summer. Mr. Gurney was acquitted on five counts.

"The decision has not been made," Mr. Levi repeated. "The decision has not been ruled on by the Deputy [Deputy Attorney General Harold R. Tyler Jr.] or the Attorney General."

Robert J. Havel, head of the Justice Department's public information office, said a decision apparently had been made in the Justice Department's Criminal Division and the announcement was based on that, without knowledge that Mr. Levi wanted Mr. Tyler and himself to make the final decision.

Mr. Levi gave no indication

of whether he might ultimately decide on calling for a new trial. In the Nov. 21 announcement, the department said Mr. Gurney would be retried Jan. 5.

Mr. Gurney was originally named in seven counts of an 11-count indictment returned against him and six co-defendants in connection with an alleged \$233,000 slush fund. The money was contributed by persons seeking favors from the Department of Housing and Urban Development.

Mr. Gurney was acquitted on one bribery count, one count charging receiving unlawful compensations and three counts of making false declarations to a grand jury. But the jury reached no decision on a fourth count of making false declarations and another conspiracy charge.