

2 Brothers Of Nixon Miss Panel Session

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President Nixon's brothers, F. Donald and Edward, failed to appear before the Senate select Watergate committee yesterday afternoon after being subpoenaed to testify about the \$100,000 given by billionaire Howard Hughes to the President's close friend, Charles G. (Bebe) Rebozo.

The Senate committee's chief counsel, Samuel Dash, said yesterday that the Nixon brothers had violated the subpoena and could be subject to contempt action by the committee.

The Nixon brothers' lawyer, Elmer J. Stone, said, however, "It is our position that the subpoena has been fully complied with." He said the Nixons had appeared at a closed morning session of the committee.

According to Dash, the Nixon brothers, after appearing in the morning before committee Chairman Sen. Sam J. Ervin (D-N.C.) and Vice Chairman, Sen. Howard H. Baker, Jr. (R-Tenn.), had agreed to return in the afternoon to answer questions.

The morning session, according to Dash, was confined to an argument over what documents the Nixon brothers were required by the subpoena to produce for the committee in its continuing in-

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quiry into the \$100,000 Hughes contribution.

Rebozo has told the committee that the money remained untouched in a safe deposit box for three years before it was returned to Hughes in June, 1973.

According to informed sources, however, President Nixon's former personal lawyer, Herbert W. Kalmbach, has told the committee that Rebozo indicated to him that portions of the \$100,000 were given or lent to Donald Nixon and to President Nixon's personal secretary, Rose Mary

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Dash said at the morning session that Stone asked Ervin and Baker to quash the subpoena as it related to the documents the Nixon brothers had been asked to produce. According to Dash, the motion was taken under advisement.

Dash said that Ervin and Baker then said that the Nixon brothers should answer questions and Stone agreed. The Nixon brothers and Stone then met with the committee staff to review the areas of questioning that the staff wanted to pursue. Stone agreed they would return at 2 p.m., Dash said.

Stone appeared at 2 p.m., but asserted that the Nixon brothers would not appear and that his motion to quash the subpoena included the testimony as well as the documents, according to Dash.

At 3 p.m. closes session, at which Sen. Herman E. Talmadge (D-Ga.) presided, Talmadge ruled that the Nixon brothers were required to appear and that they had failed to appear, Dash said.

Dash said that the subpoena had been served on the Nixons in April and that compliance with it had been postponed several times at the request of the Nixon brothers. "At no time did they indicate they were not going to answer questions or nor produce documents . . . until the last minute," Dash said.

Stone, however, said that it was "totally untrue" that he had agreed to return to the afternoon session with the Nixon brothers. "The agreement was that I would appear at 2 o'clock," Stone said in a telephone interview.

Stone said he disagreed with the position the committee staff took at the afternoon session that the Nixon brothers were required to appear to answer questions. Stone also said Talmadge ruled only that the Nixon brothers were not present but not that they were required to appear.

A source close to Talmadge said the sole purpose of the session with Talmadge was to complete the record by demonstrating that the Nixon brothers had not appeared and that Talmadge's ruling was limited to that. The source said that the staff indicated that the record of the morning session made clear that the Nixon brothers were required to testify in the afternoon.

Donald Nixon's relations with Hughes date back at least as far as 1956, when Hughes lent him \$205,000 to bail out his failing chain of restaur-

rants. The loan was never repaid and became a source of political embarrassment to Richard Nixon.

According to several reports, Donald's continuing relationship with persons who were associated with Hughes was a source of concern for the White House. At one point, President Nixon ordered the Secret Service to place a wiretap on Donald's phone.

President Nixon said the wiretap was placed not out of suspicion of his brother but because "others" might be trying to "get him, perhaps to use improper influence and support."

A lawyer for Rebozo, who also has defied a committee subpoena to produce documents, was quoted by the Associated Press last May 9 as saying Rebozo took the \$100,000 from a Hughes emissary because he "was trying to protect the President from Donald Nixon. That's not nice to say, but it's the truth."

Most recently, Donald Nixon, 59, had been employed as vice president for industrial and community relations of the Marriott Corp. His retirement from Marriott was announced last spring.

Edward Nixon, 43, is employed by a Seattle-based environmental services company. Both Nixon brothers were called as witnesses during the trial of former Attorney General John N. Mitchell and former Commerce Secretary Maurice H. Stans, who were acquitted in May of charges of conspiracy, obstruction of justice and lying to a federal grand jury.

Both the Nixon brothers and Stone were reported to be staying at the Marriott Crystal City motel in Alexandria, while in the Washington area.