

Nixon Kin

Fighting Subpoena

Heart Trouble Is Cited by Brother Donald

By Stephen Isaacs
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NEW YORK, March 11—

The older of the President's two brothers is trying to quash a subpoena requiring him to testify in the trial here of John N. Mitchell and Maurice H. Stans, it was learned today.

The names of both of the President's brothers, Edward and F. Donald Nixon, have been mentioned several times in testimony in the trial thus far.

On Friday, sources said, lawyers for F. Donald Nixon, 59, an executive of the Marriott Corp. who lives in California, moved secretly to quash the government's subpoena for his appearance here.

A brief hearing on Nixon's motion was held in the chambers of U.S. District Court Judge Lee P. Gagliardi on Friday, the sources said.

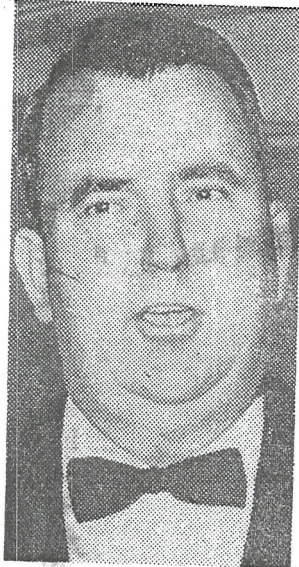
They indicated that Nixon's motion was based on his failing health — he has suffered from a heart condition for some time and is supposed to be taking heavy medication.

Edward Nixon's son, Donald A. Nixon, has been employed since 1971 as executive assistant to another key figure in the case here—fugitive financier Robert L. Vesco—and reportedly is in Nassau, Bahamas, with Vesco now.

Since attorneys in the case are under strict orders not to reveal the contents of closed meetings, it could not be ascertained tonight exactly what occurred in the meeting, but the government is understood to have moved to have Nixon examined by an outside doctor approved by Judge Gagliardi.

It is known that the motion to quash is still pending.

In court today, Assistant U.S. Attorney John R. Wing revealed that witness Harry L. Sears probably would testify that then-Attorney General Richard G. Kleindienst tipped Mitchell off when one of Ves-



F. DONALD NIXON
... was memo target

co's associates first started talking about his activities to federal prosecutors.

It was learned tonight that Kleindienst in fact appeared before the grand jury investigating Vesco, Mitchell, Stans and Sears on two occasions, and twice underwent questioning from Wing and Executive

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Assistant U.S. Attorney James W. Rayhill on the matter.

Mitchell, Stans, Sears and Vesco are accused of conspiracy, obstruction of justice and perjury in connection with an investigation of Vesco by the Securities and Exchange Commission. The government alleges that Vesco made a secret \$200,000 contribution to the Nixon re-election campaign in return for Mitchell's and Stans' intercession in the SEC investigation.

Vesco is a fugitive and attempts to extradite him have failed, while Sears has been granted almost total immunity in exchange for his testimony.

Today was Sears' fifth day on the stand. The government concluded its direct examination of him at 3:58 p.m.

At one point, Sears said Vesco was worried that a criminal proceeding was being started against him in conjunction with the SEC's civil action against him, and sent Sears to his old friend Mitchell to find out whether that was true.

Sears managed the President's re-election campaign in New Jersey, where he was once majority leader of the



RICHARD G. KLEINDIENST
... talked to grand jury

New Jersey senate. Mitchell by this time had long left his post as Attorney General and his later post as Mr. Nixon's national campaign director.

Mitchell, said Sears, "told me he had called Dick Kleindienst and that Kleindienst told him that he didn't even recognize Vesco's name and he told me as far as he could find out, there was absolutely nothing to this story, this fear that Vesco had."

Wing tried to get Sears to testify that Kleindienst did more, but Gagliardi refused to allow the testimony before the jury.

Sears has been an occasionally reluctant witness and Wing was not absolutely sure what he would say.

Wing told the judge: "Mr. Sears will testify that some time in late February he received a call from Mr. Mitchell, who told him that Mr. Kleindienst had just called and said somebody named Larry Richardson had walked into the U.S. attorney's office with respect to the Vesco matter; that Mitchell asked Sears, who is this guy Richardson?"

"And Sears then told him

who Richardson was, to wit, the man who delivered the contribution, and Mitchell asked Sears if he could talk to Richardson and find out what's going on and Sears said he would try."

"And Sears did in effect then try."

Gagliardi also struck from the trial record a remark that Sears attributed to Mitchell after Sears had described some dealings he had had with Vesco.

"I recall Mr. Mitchell saying to me words—these exact words, 'Well, the bastard is nothing but a petty thief.'"

Wing managed to get into testimony today a memorandum that Vesco allegedly prepared for the eyes of F. Donald Nixon, which was left at the Marriott-owned Essex House Hotel here for Nixon to pick up. Sears said Mitchell eventually ended up with the

memo and gave it to Sears, who gave it to the prosecutors, and it is not known whether Nixon ever saw it.

The memo threatened revelation of his secret campaign contribution if someone did not stop the SEC investigation of him.

"... It is probable," said the memo, "that the facts of the contribution will become known unless the investigation by the SEC is stopped promptly."

Further, said the memo, "it is in the best interest of the U.S.A. to cause the SEC to drop the entire action... since RLV [Vesco] can uniquely assist U.S. objectives in Morocco, Spain, Costa Rica, the Bahamas, Dominican Republic, Haiti, and many South American countries. This capability is available for official use by the U.S. on a clandestine basis..."