

MEMO SAYS VESCO ISSUED WARNING

MAR 12 1974

Jurors Hear of a Threat to Nixon's Brother if S.E.C. Inquiry Was Not Stopped

NYTimes

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The jury in the trial of John N. Mitchell and Maurice H. Stans heard a letter read yesterday that depicted Robert L. Vesco as being so frantic about a Securities and Exchange Commission investigation into his financial empire that he warned the President's brother, F. Donald Nixon, that if the inquiry were not stopped there would be international and national repercussions.

A seven-page unsigned typewritten memorandum that the prosecution said was written by Mr. Vesco contends that Mr. Vesco threatened to disclose a secret \$200,000 cash contribution he had made to President Nixon's re-election campaign. Mr. Mitchell and Mr. Stans are charged with impeding the S.E.C. investigation into Mr. Vesco's far-flung business enterprises in exchange for the contribution.

The memo said: [Mr. Vesco] advised to make sure that this information was not given under any circumstances and absolutely protect the Nov. 7, 1972, date. [Election Day]. To accomplish this, it was necessary to use all legal means, including the Fifth Amendment to resist

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the questions and this has been successful to date.

"In view of outstanding subpoenas to attorneys who cannot claim the same constitutional rights and other legal means available to the S.E.C. it is probable that the facts will become known unless the investigation by the S.E.C. is stopped promptly."

The letter said that the Spanish Government, including Generalissimo Francisco Franco, chief of state, was prepared to make an "international incident" if the S.E.C. "harassment" of Investment Overseas Services and their shareholders continued.

The letter, read to the jurors by John R. Wing, an Assistant United States Attorney in charge of the frauds section, described the Spanish group that purchased control of I.O.S., once headed by Mr. Vesco, as the "financial establishment of Spain, the royal family and representatives of certain foreign governments."

Prior to the reading of the undated memorandum to the jury, Harry L. Sears, the former Republican leader of the New Jersey Senate, who took the witness stand for the fifth day, testified that he told Mr. Mitchell, a former Attorney General, in the fall of 1972 that Mr. Vesco was "up the wall" when he received his subpoena to testify before the S.E.C. Mr. Sears added, in describing Mr. Vesco's demeanor, "I said he was wild about it."

When Mr. Wing began to read the memo, standing before the jury box, Mr. Sears, a co-defendant, granted full immunity from prosecution, leaned back in his chair in the witness box and sipped water from a plastic cup. Peter Fleming Jr., Mr. Mitchell's attorney, turned his chair to face the jury so he was only several feet away from Mr. Wing.

The indictment states that a red manila envelope containing the memorandum was delivered to the Essex House, where Donald Nixon occasionally stays, in November,

1972, after the election. On the front was written: "Hold for Arrival of Don Nixon." Instructions were that if the envelope was not delivered before Nov. 14 or 16, it was to be returned to Mr. Vesco's offices in Fairfield, N. J. It has never been established whether or not Donald Nixon received the memorandum.

Through some yet as undisclosed event, the manila envelope and the memorandum later turned up in Mr. Mitchell's New York law office. Mr. Sears testified that Mr. Mitchell showed him the folder and then

Mr. Sears took it with him, placed it on the shelf in his home and never returned it to Mr. Vesco.

At the time, Mr. Mitchell had returned to his law firm, which he once shared with President Nixon, having left the post of Attorney General and the subsequent post of chairman of the President's re-election committee.

Nonetheless, testimony continued yesterday, he could still exert influence. In December, 1972, Mr. Sears told the jury, Mr. Mitchell telephoned, Richard G. Kleindienst, the then-

Attorney General, to ask him if criminal proceedings had been initiated against Mr. Vesco.

In recounting the events that led to that action, Mr. Sears, testifying in a courtroom crowded with spectators and reporters, said that on Dec. 7 he went to Mr. Vesco's home in Boonton, N. J., and Donald Nixon Jr., the President's nephew and one of Mr. Vesco's personal aides was there. Donald Nixon Jr. is still working for Mr. Vesco in Costa Rica, where Mr. Vesco is a fugitive.

Mr. Sears said that Mr. Vesco had played for him a tape recording of a conversation he had with a man Mr. Sears said he thought was either a member of the S.E.C. or the F.B.I., a man Mr. Vesco described as a "reliable source."

The conversation related that the S.E.C. had "as he put it, jumped into the Southern District of New York, into the U. S. Attorney's office, and that in addition to an S.E.C. civil suit there would also be a criminal action" against Mr. Vesco, Mr. Sears testified.