

Court Urges A Cox-Nixon Compromise

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Mitchell Seeks Nixon Records

By Philip Greer

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NEW YORK, Sept. 13—

Former Attorney General John N. Mitchell and former Commerce Secretary Maurice H. Stans are attempting to subpoena White House records and tape recordings concerning any discussions about financier Robert L. Vesco, it was revealed today.

Attorneys for the two former Nixon Cabinet officers, who are charged with obstructing a Securities and Exchange Commission investigation of Vesco and then lying to a grand jury about it, served the subpoena on President Nixon on Aug. 31. Government attorneys this afternoon asked that the subpoena be quashed.

The subpoena covers the period from Nov. 1, 1971, to Jan. 31, 1973, and asks for "all books, records, telephone toll records, tape recordings, notes, and memoranda" of meetings or conversations "by or between any member of the White House staff, any White House employee or President Nixon" concerning Harry L. Sears and Vesco.

Sears, a New Jersey GOP leader, has also been indicted in the case.

Word of the effort to secure the tapes and records was contained in a transcript of conversations held Monday between government prosecutors, defense attorneys and U.S. District Court Judge Lee P. Gagliardi, who is presiding over the case. Although not required by court rules, the transcript was made part of the public record of the case.

It could not be ascertained immediately whether the demand for the notes and tapes—should it be upheld by the court—would tie the Mitchell-Stans trial to the controversy over presidential confidentiality.

In Washington this afternoon, a seven-man U.S. Circuit Court of Appeals unanimously suggested that President Nixon allow Watergate Special Prosecutor Archibald Cox to listen to the tapes

See MITCHELL, A15, Col. 1

Mitchell Seeking White House Data

MITCHELL From A1

to determine which parts may be presented to the special grand jury. The White House is currently appealing an order by U.S. District Court Judge John J. Sirica that Sirica be given the tapes.

The Mitchell-Stans trial was scheduled to open on Sept. 11, the day the subpoena was returnable. Judge Gagliardi delayed the case after the Second U.S. Circuit Court of Appeals in New York recommended that action. No date has yet been set for the trial to begin, but it is expected to be between Oct. 11 and Nov. 26.

The subpoena does not specify particular conversations about Vesco. It does, however, specify discussions with or about Sears, the former Republican leader of the New Jersey State Senate, who was indicted for obstruction of justice along with Mitchell, Stans and Vesco. Sears' trial will be held later. Vesco did not appear to answer the charges and a warrant was issued for his arrests.

Individuals named as possibly having taken part in conversations about Vesco include former presidential counsel John W. Dean III, Hugh Sloan, former treasurer of the Nixon re-election committee; John D. Ehrlichman, former domestic affairs advisor to President Nixon; Edward Nixon and Donald Nixon Jr., who works as an assistant to Vesco; Fred Fielding, deputy counsel to the president; Nixon adviser Peter Flanigan, and "a Mr. Rattigan," who could not be immediately identified.

The subpoena calls for records of conversations concerning Vesco, his secret \$200,000 cash contribution to the re-

election committee and the SEC investigation which began in March, 1971, and resulted in a \$224 million civil fraud charge filed here on Nov. 27, 1972.

A lengthy preliminary hearing on the fraud charge ended in May. There has been no indication when a ruling will be handed down.

The subpoena was served on President Nixon on Aug. 31, according to the transcript of the Monday meeting, and forwarded to the U.S. attorney here on Sept. 4.

Mitchell and Stans also subpoenaed records of an executive subcommittee hearing held by Sen. William Proxmire. Witnesses whose testimony was demanded were former SEC Chairmen William J. Casey and G. Bradford Cook, as well as Daniel J. Hofgren, a former officer of the Finance Committee to Re-Elect the President, who made one of the first contacts with Vesco.

In its motion to quash both subpoenas—the government said it has the Proxmire testimony and will turn it over to the defense—the government charged that they demand "unspecified and undesignated materials pursuant to a broad-ranging blunderbuss, fishing expedition."

An affidavit signed by Thomas D. Edwards, chief of the criminal division in the U.S. attorney's office here, said the subpoenas "improperly attempt" to use the rules of the court to "seek material that is not evidentiary."

Although the subpoenas—and the government's opposing motion—only mention Mitchell's name, Stans attorney William Bonner said in the meeting with Judge Gagliardi that they are "joint subpoenas," according to the transcript.