

DEAN IS DISPUTED

BY KLEINDIENST

Ex-Attorney General Says He Can't Recall Appeal on the Mitchell Case

By MARTIN ARNOLD

Richard G. Kleindienst, former Attorney General, took the witness stand yesterday in behalf of John N. Mitchell—whom “one of the closest, most intimate friends I ever had in my life”—and attempted to refute the testimony of John W. Dean 3d.

But the defense effort was not entirely successful, since almost all that Mr. Kleindienst could swear to was that he did not recall conversations that Mr. Dean testified he had had with him about this case. Mr. Kleindienst would not deny them flatly.

Yesterday was perhaps unprecedented in American courtrooms, for before the day ended, two former Attorney Generals of the United States had testified in a criminal conspiracy trial.

The Kleindienst testimony followed the conclusion of former Attorney General Mitchell's three days in the witness chair, and with it the Mitchell defense rested. Mr. Mitchell's co-defendant, former Secretary of Commerce Maurice H. Stans, is scheduled to take the stand this morning in his own defense.

No 'Character Witnesses'

So far, 14 defense witnesses have been called and, somewhat unusually in a trial of this sort, none of them were “character witnesses”—that is, witnesses who would testify to the honor and integrity of Mr. Mitchell.

The apparent reason for this is that Mr. Mitchell faces at least one other criminal trial after this one and perhaps two more, and any witness called by him as a character witness would be subjected to Government questioning about those other cases, thereby alerting the jury to the fact that such other actions were still pending.

Besides the case here, Mr. Mitchell has been indicted in

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Washington for conspiracy to coverup the Watergate break-in, according to the official tran-

script, his lawyers fear he may be indicted yet a third time.

Mr. Kleindienst took the stand in a rather subdued manner.

Mr. Dean, former counsel to President Nixon, had testified that he received a telephone call from Mr. Mitchell, who told him that the panel that investigated this case was a “runaway” grand jury, and asked him to call Mr. Kleindienst and perhaps interfere with that grand jury.

Nature of Charges

This was the grand jury that indicated Mr. Mitchell and Mr. Stans, who were leaders of the Nixon re-election campaign, on charges of conspiracy, perjury and abstrusion of justice. They are alleged to have attempted to impede and quash a Securities and Exchange Commission investigation of Robert L. Vesco, a financier who is now a fugitive, in return for a secret, \$200,000 cash contribution that Mr. Vesco made to the re-election campaign.

Peter Fleming Jr., Mr. Mitchell's lawyer, in a quick direct examination, asked Mr. Kleindienst if he had received such a telephone call from Mr. Dean on March 20, 1973.

“I have no recollection of any such call from Mr. Dean,” the witness replied.

“Did you receive such a call after March 20?” Mr. Fleming asked.

“I have no recollection of any conversation with Mr. Dean pertaining to this subject matter,” was the answer.

In cross-examining the witness, John R. Wing, the chief prosecutor, made this his first question:

“Mr. Kleindienst, is it fair to say that you are a very, very close friend of Mr. Mitchell?”

“I think of John Mitchell as one of the closest, most intimate friends I have ever had in my life,” the witness answered.

He was asked if he did not, when he was Attorney General, suggest that his aide, Henry E. Peterson, call Mr. Mitchell and alert him that he was about to be interviewed by Whitney North Seymour, then the United States Attorney here, in this case?

Can't Recall Call

“I just—I have searched my memory,” the witness said. “It could very easily have occurred, and I just do not recollect it.” Mr. Kleindienst succeeded Mr. Mitchell as Attorney General.

He then said that “I have no recollection” of calling Mr. Mitchell himself and alerting him of the upcoming Seymour interview.

Asked whether he denied that Mr. Dean had called him about the “runaway” grand jury, Mr. Kleindienst said:

“Well, I don't believe it happened. John Dean and I had a very close, intimate relationship. It was I who brought him into the Department of Justice. He worked for me as one of my

deputies for almost two years in the closest and most confidential relationship.”

“We had a very easy, friendly relationship. He certainly didn't say anything to me that would have made any impact on my mind,” Mr. Kleindienst went on. “That would cause me to remember it.”

He was then asked if he recalled a conversation with another United States Attorney about the “runaway grand jury” and his saying to that official, “If John Dean said it, I wouldn't dispute it.”

“I could have said something

like that,” Mr. Kleindienst answered.

Earlier yesterday, Mr. Mitchell completed his third day on the witness stand. His cross-examination produced no startling revelations, but was rather a slow, tenacious attempt to chip away at Mr. Mitchell's story piece by piece.

“Do you recall that he [Dean] mentioned to the President that

it was a runaway grand jury?” Mr. Wing asked Mr. Mitchell.

“Yes,” replied the witness. “To your knowledge, did John Dean talk to anyone else about your grand jury ap-

pearance” other than the President, Mr. Wing asked.

“I don't believe so,” said Mr. Mitchell.

“Do you have any idea about how he [Dean] could have learned what kind of a grand jury it was unless he had talked to you?” Mr. Wing then asked.

“I imagine he has a great imagination” was the reply.

Mr. Mitchell also testified that he was “very incensed” that Mr. Vesco had tried to use “muscle” on the Nixon Administration to stop the investigation into Mr. Vesco's affairs. Mr. Vesco and 41

others have been accused of defrauding investors of \$224-million.

Mr. Mitchell was referring then to an unsigned memorandum, written either by Mr. Vesco or by a Vesco associate, which was addressed to F. Donald Nixon, the President's brother, but was never received by Donald Nixon. Rather, it was received by Mr. Mitchell.

That memorandum, introduced as evidence in this trial, is a summation of Mr. Vesco's dealings with the S.E.C. The memorandum had more than a hint in it that if those dealings

continued, the \$200,000 that Mr. Vesco contributed to the Nixon campaign would be made public and embarrass the President.

The memorandum said, among other things, that Mr. Stans had asked for the contribution in cash. Mr. Mitchell said he had received the memorandum, thumbed through it, and decided to give it back as soon as possible.

Mr. Mitchell conceded that even though he had been the nation's highest law-enforcement officer, he had not told the S.E.C. that Mr. Vesco was apparently attempting to black-

mail the Nixon Administration to drop the case.

Mr. Mitchell also testified under cross-examination that sometime in 1972 John D. Ehrlichman, then President Nixon's chief domestic adviser, told him that an attempt had been made by President Nixon's nephew, Donald A. Nixon, and another person to reach “people” in Key Biscayne, Fla., about the S.E.C.-Vesco case. The President, at the time, was apparently vacationing at his Key Biscayne “White House.”

The defendant said that Mr. Ehrlichman had “run them off” and “told them he didn't want

to hear anything about it.” Mr. Mitchell said that he got this information from Mr. Ehrlichman after he called Mr. Ehrlichman to tell him about Mr. Vesco's threatening memorandum.

Mr. Vesco has been indicted in this case, but has fled the country rather than face trial. The President's nephew, Donald Nixon, is with Mr. Vesco.

“Did you give him [Mr. Ehrlichman] any details” relating to the Vesco contribution, he was asked.

“None whatsoever,” was the answer.

“During that period of time were you in part—I wouldn't

use the word ‘keeper’ but responsible for the President's brothers and their families?” he was asked. Mr. Dean had testified that one of Mr. Mitchell's assignments was to be a “keeper” of the President's two brothers, F. Donald Nixon and Edward C. Nixon.

“No, I have never been responsible for any of the President's relatives,” Mr. Mitchell said and continued, “Mr. Wing, if you are talking about assigning Ed Nixon to the campaign organization, yes. If you are talking about babysitting for the Nixon brothers, the answer is no.”