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MITCHELL PROMISE
ON DEAN ALLEGED

Sears Tells Jury of Vow to Reach Nixon Counsel to Avert Election Exposure

By MARTIN ARNOLD

Just weeks before the 1972 Presidential election, John N. Mitchell promised to talk to John W. Dean 3d, then President Nixon's counsel, in a last-minute effort to avert the exposure before Election Day of a secret \$200,000 campaign contribution, a Government witness testified yesterday.

"This time I will go through the White House; I am going to talk to John Dean," the Government witness, Harry L. Sears, quoted Mr. Mitchell as saying. At that time Mr. Sears was working for Robert L. Vesco, a financier under investigation by the Securities and Exchange Commission, who had made the \$200,000 cash contribution.

The date, Mr. Sears said, was "sometime between Oct. 20 and Oct. 25, 1972"—Election Day was Nov. 4—and the S.E.C. had just issued four subpoenas to Vesco associates that "were returnable within a few days."

Recollection by Sears

"I told Mr. Mitchell that this [the subpoenas] posed the same problems with regard to the election date," Mr. Sears testified. "In substance, we discussed that, and I said, 'What if anything do you think can be done?' He continued,

"And Mr. Mitchell said, 'Well I . . . I . . . don't tell Vesco, but this time I will go through the White House; I'm going to talk to John Dean.'" Mr. Dean is an unindicted conspirator in this case.

No mention was made yes-

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terday of whether or not Mr. Mitchell actually called Mr. Dean. The commission did not file its first civil suit against Mr. Vesco until Nov. 27, 1972. The agency had started its investigation on March 18, 1971.

Mr. Mitchell, the former Attorney General, and Maurice H. Stans, former Secretary of Commerce, are accused of conspiracy, perjury and obstruction of justice in attempting to impede that investigation in return for the \$200,000 contribution to President Nixon's re-election campaign. Mr. Vesco, who was also indicted, has fled the country, and Mr. Sears, likewise indicted, has been granted full immunity to be a Government witness.

Fourth Day on Stand

Mr. Sears spent most of yesterday, his fourth day on the witness stand, telling of various efforts to keep news of the \$200,000 contribution from being made public before Election Day.

He testified also that Mr. Vesco had made efforts to frighten Mr. Mitchell, then a full-time leader of the re-election campaign, into quashing the investigation.

He said, for instance that on Oct. 19, 1972, Mr. Vesco cited the Fifth Amendment, against self-incrimination, before the S.E.C. in refusing to testify about the \$200,000, and added that Mr. Mitchell said, "Please tell Bob that I am grateful."

This was to be the carrot, Mr. Sears indicated, and testified that Mr. Vesco had commented, "I hope to hell that will make them happy because that's [his taking the Fifth Amendment] just like another contribution."

And, according to Mr. Sears, Mr. Vesco said, "Those bastards would like nothing better than to nail me and the President to the wall together."

Had a Stick to Use

But, Mr. Sears said, Mr. Vesco also had a stick to use on Mr. Mitchell, and it involved President Nixon's oldest brother, F. Donald Nixon.

Mr. Sears testified that a few days after the election the following took place:

"Mr. Vesco called me and told me that he had been talking with Newport Beach, and

I said, 'What do you mean?' He said, 'I have been talking with one of the brothers,' and I said, 'What have you been talking about?'"

"He said, 'I have been discussing with them and trying to get their help,' Mr. Sears continued. "I want to get a message to the top,' or words to that effect, and I said, 'What kind of message are you talking about?'"

Mr. Sears went on: "He [Mr. Vesco] said, 'I want to get a message to the top that this whole S.E.C. thing is asinine, that it's hurting a lot of people and I want to get a message to the top and I want to try and get the brothers to help me.'"

Exchange With Vesco

According to Mr. Sears, he then told Mr. Vesco, "Bob, I think you must be joking or out of your mind." To which, Mr. Vesco replied, "No, I have been talking with Newport Beach," Mr. Sears said. It then developed that Mr. Vesco was referring to Donald Nixon, who lives in Newport Beach, Calif., Mr. Sears said.

Mr. Vesco also attempted to reach Donald Nixon in another way, Mr. Sears continued. He testified that on Nov. 20, 1972, he went to visit Mr. Mitchell in his New York law office and Mr. Mitchell handed him a large red envelope-like folder.

On front of it, Mr. Sears testified, was written "Hold for arrival of Don Nixon" and the words "The Essex House" and "If not delivered before Nov. 16 or 14 it should be returned to Shirley Bailey." Mrs. Bailey was secretary of the corporation Mr. Vesco headed, Donald Nixon often stayed at the Essex House when in New York.

"Well, Mr. Mitchell said to me 'well Don never arrived,'" Mr. Sears said. He then said that he, Mr. Sears, took the folder and put in on a shelf in his home and never returned it to Mr. Vesco.

The folder and its contents, except for one document, were placed into evidence. It is believed to contain a memorandum that Mr. Vesco allegedly wrote to Donald Nixon in which, the Government said in its indictment, "the purport and tenor of which was to threaten disclosure of the secret cash contribution and other adverse consequences unless the S.E.C. was directed

to drop all legal proceedings against Vesco."

There was no testimony on how the folder, allegedly intended for Donald Nixon, arrived in Mr. Mitchell's office.

Mr. Sears also told of a letter that President José Figueres of Costa Rica wrote to President Nixon on behalf of Mr. Vesco, and the Government introduced the letter into evidence. It expressed fear that the S.E.C. investigation would, in some way, upset the large financial investments Mr. Vesco was making in Costa Rica where he is now living.

A trial such as this is often

fraught with ironies. Mr. Mitchell, for instance, is charged with perjury under the new "false declarations before grand jury or court" statute, which was enacted at his behest when he was the Attorney General and noted for his "law and order stance."

The statute makes a conviction on such a charge simpler than previously because now there is no need for "any particular number of witnesses" to the alleged act, where previously there was a need for two witnesses or one witness and collaboration.