

Nixon Brother Tells of Bid To Warn President in '72

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By MARTIN ARNOLD

F. Donald Nixon, a brother of the President, told the witness stand yesterday and testified that he had been asked to warn the President that a secret \$200,000 cash contribution to his re-election campaign might be exposed before Election Day.

He refused to pass on the warning, Mr. Nixon told the Mitchell-Stans trial jury, because "I have never taken anything directly to him, nor have I used that office for any purpose for myself or for any client or people I work for."

Instead, the witness said, he suggested that the warning be given through John N. Mitchell, the former Attorney General.

F. Donald Nixon, 59 years old, a younger brother of the President, is a plump ruddy-faced man, with a large double chin, who appeared in court in a conservative gray-black suit, a white shirt, a light gray necktie. He was wearing an American flag in his lapel and a gold ring on the fourth finger of each hand.

He settled back comfortably into the witness chair, entwined his fingers together on his lap

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and testified that a lawyer for Robert L. Vesco, a financier who is now a fugitive, had asked him to pass on the warning to the President.

Mr. Mitchell and Maurice H. Stans, the former Secretary of Commerce, are accused of attempting to impede a Security and Exchange Commission investigation of Mr. Vesco in return for a \$200,000 campaign contribution. They are charged with perjury, conspiracy and obstruction of justice.

Mr. Nixon said that the lawyer, Howard Cerny, who has been named as a co-conspirator in this case but has not been indicted, had called him at a Manhattan hotel—"I don't recall which hotel"—sometime in the fall of 1972 and "he said he wanted to see me about something rather important."

"I told him to come over," the Government witness continued, "so he came over, and there was—the main thing he mentioned to me—the only two things, really, the fact that this is—he told me there had been a \$200,000 contribution made to the—to my brother's campaign."

He went on: "And that this

S.E.C.—there was an S.E.C. investigation in progress which would very likely expose this contribution, and he felt—he felt this probably would happen before the election, and he wanted to get this to the President."

"Did Mr. Cerny at the time tell you the form of the \$200,000 contribution?" he was asked by James W. Rayhill, a prosecutor.

"He said that there was a cash contribution, yes," Mr. Nixon replied.

The witness had sought to have the subpoena summoning him here quashed, on the ground that he was in ill health, but apparently after Mr. Nixon was examined by a court-appointed physician, Judge Lee P. Gagliardi denied that motion.

The President's brother, when he was sworn in, testified that he was a vice president of the Marriott Corporation, a "vice president of industry-community relations, a job I would think would be pretty well-known in most circles." The company has announced that he will retire this month.

Asked About His Son

He also testified that he did not know where his son, Donald Nixon, worked, but that at one time his son was employed by Mr. Vesco. Mr. Vesco, who was also indicted in this case, has fled the country, and F. Donald Nixon's son, the President's nephew, is with him.

Still sitting back in the witness chair, Mr. Nixon said that he considered Mr. Mitchell "a friend," Mr. Stans a "casual" friend and Mr. Cerny "a friend of mine for many years." He said he had also met Mr. Vesco several times.

Mr. Nixon said that he made it "very plain" to Mr. Cerny, then Mr. Vesco's attorney, that he did not want to get involved in the Vesco case. Mr. Vesco and 41 others have been accused of defrauding investors of \$224-million.

"John Mitchell's name came up in that conversation," he testified. "I said, 'John Mitchell is no longer in government... maybe he's the one you should talk to.'" Mr. Mitchell and Mr. Stans were leaders of the Nixon re-election campaign.

Mr. Cerny felt "it would be important to the President" to know of the \$200,000 contribution and the S.E.C. investigation, Mr. Nixon testified, and then Mr. Nixon suggested "Mitchell would be the one that he should talk to," the witness testified.

"Did Mr. Cerny make a telephone call in your presence during the conversation?" Mr. Rayhill asked.

"I don't recall any. I think there was talk about it, and in my mind is foggy about this he answered, Mr. Nixon had already testified before the grand

jury investigating this case that Mr. Cerny had called Mr. Mitchell in his presence.

Mr. Rayhill showed him a transcript of his grand jury testimony, but nonetheless the witness said, "I still don't recall at this moment whether he called at that time."

Mr. Mitchell, according to Mr. Nixon, was the "man that

I was delegated—that designated that I should talk to him about any matter pertaining to—in other words, I never talk to my brother about anything, and John Mitchell was the man that I was assigned to."

The White House has admitted, among other things, that it had ordered F. Donald Nixon's telephone tapped. When John W. Dean 3d, former counsel to the President, testified at this trial, he said that he and Mr. Mitchell and John D. Ehrlichman, then the President's chief domestic adviser, had been as-

signed at various times to be "keepers" of F. Donald Nixon.

Mr. Nixon was called to testify at this trial in an attempt to show that Mr. Vesco was willing to use anyone, even the President's brother, to try to impede his S.E.C. case. On Nov. 27, 1972, the commission filed charges in the case.

The President's brother testified that over the weekend of Nov. 10-12, 1972, he received a call from his son asking him to call Mr. Vesco, and that he did phone Mr. Vesco, perhaps

from a public pay phone, from Newport, Calif., where the President's brother lives.

Mr. Vesco wanted to be assured at the time that the manager of the Essex House Hotel in New York would deliver an envelope to Mr. Mitchell, the witness testified. The hotel is owned by Marriott.

Mr. Vesco, in fact, wanted Mr. Mitchell's room number in the hotel, Mr. Nixon said, but he would not give it to him. "Well, in the hotel business, even if I knew his suite number, I would not give it to him,

that is not ethical. We don't do that," the witness said.

It has been testified at this trial that the envelope was finally handed to Mr. Mitchell by the hotel manager, and that it contained a letter from Mr. Vesco, and other materials, warning that the S.E.C. investigation would lead to the revelation of the secret contribution.

The President's brother was only on the witness stand for about 25 minutes before a courtroom that was half-empty because there had been little advance publicity that he was going to testify yesterday.

Many answers were rambling and not to the point, and he had to cut off several times.

Under cross-examination Peter Fleming Jr., Mr. Mitchell's lawyer, asked him if it was not

true that Mr. Vesco did not know how to reach Mr. Mitchell.

The witness said that was correct—"that's right, and I wasn't going to give John Mitchell's number out to anyone."

There were several light moments during Mr. Nixon's testimony, the first coming when the clerk of the court asked him to spell his name, and he intoned N-I-X-O-N. This brought some laughter from the audience; the second moment was when he described Mr. Mitchell as a friend and gave him a jaunty salute from the witness stand.

Meanwhile, a day after Mr. Vesco declined to tell an interviewer whether or not he had ever discussed his \$200,000 campaign contribution with President Nixon, a White House spokesman said yesterday that "the President doesn't remember meeting Mr. Vesco."

The spokesman was responding to a question prompted by an exchange between Mr. Vesco and Walter Cronkite during a telephone interview broadcast Monday night by the Columbia Broadcasting System.

Asked if he had ever discussed the contribution with Mr. Nixon, Mr. Vesco, who is living in Costa Rica, at first said, "Uh," followed by a long pause, then replied, "Let's go on to the next question."



The New York Times
F. Donald Nixon outside Federal Court yesterday.