

Edward Nixon Rebutts Stans Prosecution

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By MARTIN ARNOLD

Edward C. Nixon, the President's youngest brother, yesterday became the first witness for the defense in the Mitchell-Stans trial, and promptly contradicted the testimony of two of the Government's chief witnesses.

Mr. Nixon took the stand after Judge Lee P. Gagliardi dismissed one of three obstruction-of-justice counts against John N. Mitchell and Maurice R. Stans. There remains one conspiracy count and two obstruction-of-justice counts jointly against both defendants, and six perjury counts against each.

On Tuesday, the President's other brother, F. Donald Nixon, testified, most reluctantly, for the Government. Yesterday was Edward Nixon's turn in the witness chair.

At 43, he is the youngest of the three Nixon brothers. He is also the tallest, a reed-thin, 6 feet 1 or 2 inches. His face, however, closely resembles the President's, as do his hand gestures and his manner of speaking.

Edward Nixon testified that Mr. Stans told him in 1972 that it made no difference whether a \$200,000 contribution to President Nixon's re-election campaign by Robert L. Vesco, a financier, was made in cash or by check. Mr. Stans and Mr.

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Mitchell were leaders of the re-election campaign.

Mr. Stans, the former Secretary of Commerce, and Mr. Mitchell, the former Attorney General, are accused of conspiring to quash a Securities and Exchange Commission investigation of Mr. Vesco in return for the secret, \$200,000 cash contribution. Mr. Vesco, who is a fugitive, and 41 others have been accused of defrauding investors of \$224-million.

The question of whether Mr. Stans asked for the contribution in cash or whether it was Mr. Vesco who wanted to make it in cash is important for several reasons.

First, it goes to the heart of one of the perjury counts against Mr. Stans. He has testified before the grand jury that returned the indictments in this case that he told Mr. Vesco that either a check or cash was acceptable, and that the giving of cash was Mr. Vesco's idea.

Secondly, it is the Government's contention that the defendants wanted to keep the

Vesco contribution secret—a contention that must fail if the defense can prove that, in fact, Mr. Stans did not care whether the contribution was made by cash or with a check.

Testimony Contradicted

Two important Government witnesses, one a reluctant witness against Mr. Mitchell and Mr. Stans, have testified that Mr. Stans wanted the money in cash. They were Harry L. Sears, a former Vesco associate and a former New Jersey Republican leader, who was granted immunity from prosecution in this case in return for his testimony, and Laurence B. Richardson Jr., former president of one of the companies Mr. Vesco controlled.

Edward Nixon's testimony on this matter was directly contradictory to the Sears-Richardson testimony, and appeared to be at odds with Government testimony on another point.

Edward Nixon appeared as a witness for Mr. Stans. He introduced himself as a resident of the state of Washington, describing himself as a geologist by training, and "an environmental scientist" by profession. Under cross-examination, he said he was a board member of a company that manufactured antipollution devices.

He said that on March 29, 1972, while working in the Washington, D. C., office of

the President's re-election campaign, he received a telephone call from Mr. Vesco's attorney, Howard Cerny, who is a co-conspirator in this case but was not indicted.

"Mr. Cerny wanted me to come to New York and right away. I wanted to know why," the witness said. "He said he couldn't tell me, it was too sensitive, but asked if I would do it just as a personal favor to him."

The auditors said that he then took a shuttle flight to Newark, N. J., that day, and was met at the airport by Mr. Cerny, who told him that Mr. Vesco wanted to make a campaign contribution and that "we had to get the contribution in before April 7 in order for him to remain anonymous."

The new campaign contribution law went in effect on April 7, 1972. It required that all political contributions be made public to the General Accounting Office. Mr. Vesco actually turned over the \$200,000 in cash on April 10.

Edward Nixon testified he said that he and Mr. Cerny had arrived at Mr. Vesco's office in Fairfield, N. J., where they met Mr. Vesco, Mr. Sears and Mr. Richardson.

Mr. Nixon said that he had been summoned to New Jersey because Mr. Vesco was unable to reach Mr. Stans, whom he wanted to find out if the money had to be in cash, "and had not been able to do so and

they were too close to the [April 7] deadline to wait any longer." Mr. Richardson has testified that in a meeting attended by himself and Mr. Vesco and Mr. Stans on March 8, 1972, "Mr. Stans said he would like it in currency."

And later yesterday, under cross-examination, John R. Wing, the chief prosecutor, asked sarcastically, "Did you suggest to Mr. Cerny that on March 29, with respect to making the contribution before April 7, all you had to do was send in the contribution before April 7?"

To which Edward Nixon answered, "I didn't question Mr. Cerny's—reasons for his rationale, his rationale at all."

Under direct examination by Walter Bonner, Mr. Stans' lawyer, Mr. Nixon said that the "reason I was called on such a hurry-up nature was that we were then practically within a week of the deadline for making anonymous contributions."

He went on to say that Mr. Vesco and his associates had asked him to call Mr. Stans be-

cause "they wanted to know how to make the contribution."

Mr. Nixon said that he could not reach Mr. Stans, but had learned that the defendant was on his way to LaGuardia airport from Washington, so he went to the airport on a helicopter ordered by Mr. Vesco to "intercept" Mr. Stans.

He missed Mr. Stans at the airport, he said, but learned the former Secretary was going to the Metropolitan Club in New York, so he went there and finally met him.

Mr. Stans told him that the contribution would have to be made before April 7 to remain anonymous, that it made no difference to him if it was in cash or check, but that "if they were really concerned so much about anonymity, that the contribution should probably be made in cash to be absolutely anonymous," Mr. Nixon testified.

Mr. Nixon then said he had gone to the phone booth in the club and called Mr. Vesco at a special number. The financier had given him, a number of a "swept line, which I presume to mean a debugged phone."

He was asked, Mr. Nixon said, "if they wanted to do this thing in an anonymous fashion, how do we do it?"



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Edward C. Nixon arriving at Federal Court yesterday