

Levi Failed to Quiz Two on Ford Role

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The Justice Department conceded yesterday that Attorney General Edward H. Levi decided not to investigate President Ford's possible role in blocking a 1972 Watergate probe without questioning two key witnesses.

The department also admitted that a third witness, who was interviewed, had not been placed under oath.

On Oct. 20, Levi rejected a request from two House members, Reps. Elizabeth Holtzman (D-N.Y.) and John Conyers Jr. (D-Mich.), for an investigation of charges by former White House Counsel John W. Dean III.

Dean charged in a television interview that in 1972 aides to President Nixon had contacted Ford, then the Republican leader in the House, about

blocking a Watergate investigation planned by the House Banking Committee. Among the White House staff members identified as contacting Ford were William Timmons and Richard Cook.

Ford subsequently said he stood by his testimony at his vice presidential confirmation hearings in which he said he could not recall any specific contacts about the committee probe with Timmons, Cook or other Nixon aides.

Yesterday, Carl Stern, NBC News legal correspondent, charged that Levi's decision not to investigate further "rested heavily" on denials by Timmons and Cook of Dean's charges. But, Stern added, Timmons was not questioned by the Justice Department.

"Cook was questioned but not under oath," Stern said. "And the department made no attempt to talk to Dean, who made the charge — nor did it ask to see supporting records he says he has."

In reply, Justice Department spokesman Robert J. Havel said Levi had never implied that the inquiry included detailed questioning of potential witnesses. In his Oct. 20 statement, Havel noted, Levi had made clear that Justice's purpose had been to examine facts and statements already on the record to determine whether a detailed new investigation of the charges against Ford was warranted.

In his statement, Levi specified that the Justice Department had studied the transcript of Dean's TV remarks,

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"his present statements and previous testimony" before a 1973 Senate committee investigating Watergate, the testimony of Ford before House and Senate committees weighing his vice presidential confirmation in 1973 and the denials of the Dean allegations by Timmons and Cook.

"The department," Levi's statement added, "has also considered the times and circumstances under which these recent and past statements and testimony were given; and in this connection the department has also checked with former Watergate Special Prosecutor Leon Jaworski as to what statements were made to him in the course of his investigation."

"On these bases," Levi said, "it has been concluded that there is no credible evidence, new or old, making appropriate the initiation of a further investigation. A further investigation would be justified only if there were credible evidence suggesting that any person, while under oath and with requisite criminal intent, misstated material facts at the time in question."

Levi's decision and his reasoning since have come under attack as inadequate. Holtzman, for example, responded to his rejection of an investigation by saying it smacked by "a cover-up."

Asked yesterday whether the Justice Department now thought the witnesses should have been questioned, Havel referred back to the Oct. 20 statement and said, "We think it speaks for itself. It explains what we

did and why and, on that basis, why the Attorney General made the decision that he did."

Other department sources said that Cook had been interviewed only because he was the only person figuring in Dean's charges whose denial was not on public record. Timmons, they added, was not questioned because he previously had given an affidavit denying that he talked to Ford about blocking the 1972 investigation.