

A Federal Prosecutor Moves to Protect His Case Against Dean

By ANTHONY RIPLEY

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WASHINGTON, June 19—The Watergate special prosecution force presented a sealed folder of evidence to Federal District Court today in a move to protect any future criminal case that it might bring against John W. Dean 3d.

Mr. Dean, President Nixon's counsel until he was dismissed April 30, is a key figure in the Watergate scandals and is scheduled to testify next Monday before the Senate Watergate Committee, not Tuesday, as was reported yesterday.

One of his attorneys told Senate investigators today that his testimony would be "highly charged," and that the White House was already attempting to discredit him.

James F. Neal, special assistant to Archibald Cox, the Watergate special prosecutor, presented the two-inch-thick, sealed manila folder to the court for safekeeping. Chief Judge John J. Sirica accepted the package.

Under such an arrangement,

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Mr. Cox will be able to assert that the Government's case against Mr. Dean was gathered independently from what Mr. Dean may say next week before the open hearings, which will be televised nationally.

Mr. Cox had sought to delay the entire Senate process for fear it would damage possible criminal indictments and trials by widespread pretrial publicity over national television. The Senate committee and the courts both rejected his request.

However, the televised Senate hearings were canceled this week for another reason—so they would not detract from the summit talks between President Nixon and Leonid I. Brezhnev, the Soviet Communist party leader.

Judge Sirica's action today does not deal with the pretrial publicity problem but does help the special prosecutor to protect any criminal action later against

Mr. Dean.

One of Mr. Dean's lawyers, Charles N. Shaffer, had been expected at this morning's court hearing but did not arrive.

Instead, he went to the New Senate Office Building, where he consulted with Senator Sam J. Ervin Jr., Democrat of North Carolina, the committee chairman; Senator Howard H. Paker Jr., Republican of Tennessee, the vice chairman, and committee staff members.

Concerned About Leaks

According to Senator Baker, Mr. Shaffer was concerned about leaks to the press of statements made last Saturday to the committee and its staff in a 5½ hour session.

Both Mr. Shaffer and Senator Ervin specifically cited reports in The New York Times and by the columnist Jack Anderson in a radio broadcast that Mr. Dean had told Federal prosecutors he had kept \$14,000 dollars in 1972 Republican campaign funds.

Senator Baker said that Mr. Shaffer was trying to prevent any further testimony in private to reduce the chances of further leaks.

Committee sources said that the testimony Saturday, although long and detailed, was only "the tip of the iceberg."

Committee practice is to have witnesses appear before the committee in executive session before the public hearing begins.

"Dean's testimony is important, and I'll take it any way I can get it," Senator Baker said.

"I'm concerned about security, too," he said. "I have been from the day go."

Friendly Senator Sought

Other committee sources reported that Mr. Dean had told the Senate investigators that the White House earlier this year discussed ways to blunt the effect of the Senate hearings before they started. One of those methods, the sources said, was to get a Senator friendly to the White House on the committee.

Senator Baker on Sunday said that he had been approached by a Presidential assistant who asked if the White House might have a say in the selection of "committee counsel."

"I told him, 'No,' he could not," Senator Baker said.

The contact man, he said was Wallace H. Johnson Jr., at the time a special assistant to the President for legislative affairs. Mr. Johnson now is an Assistant Attorney General in charge of the lands and natural resources division of the Justice Department.

Mr. Johnson, according to

The Associated Press, confirmed the Senator's version of the incident but said that he did not see it "as an effort to put a voice on the committee" but instead, to have a "point of contact."

Misunderstanding Feared

Mr. Dean had been expected to appear again today before the Senate investigators. Samuel Dash, chief counsel for the committee, said that today's appearance "was canceled" but would not elaborate.

Speaking of press leaks in general, Mr. Dash said, "I've always said I don't think it's good for public hearings for witnesses' statements to appear in the newspaper [before they are made in public]. They can be misunderstood and misinterpreted."

Fred D. Thompson, the minority counsel, would not talk about the meeting with Mr. Shaffer.

Mr. Thomson was asked whether the committee was eager to talk with Mr. Dean about matters he had earlier declined to answer on the grounds of executive privilege, attorney-client relations and national security.

He would only say that that was a "perceptive" question.

The committee has been seeking to learn the contents of 35 or more talks that Mr. Dean had with Mr. Nixon earlier this year. Those talks were not touched on by the Senate staff on Saturday because the committee had not decided how to handle questions of privilege and national security.

However, Leonard Garment, counsel to the President, has since said that the White House would waive all executive privilege and lawyer-client questions relating to Mr. Dean.

Mr. Dean is compelled to testify before the Senate Committee under the grant of immunity. However, his words in the Senate may not be used against him in a later criminal



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James F. Neal, special assistant to the prosecutor in the Watergate case, after presenting sealed evidence to Chief Judge John J. Sirica.

trial. This is called "use-immunity."

Such immunity was noted in today's order by Judge Sirica.

The judge ordered that the seal on the documents "be broken only in the event that John Wesley Dean 3d should challenge at any stage of any criminal proceeding the validity of any indictment or admissibility of any evidence on the ground that such indictment or evidence was derived directly or indirectly from testimony compelled from said John Wesley Dean 3d by the Senate Select Committee on Presidential Campaign Activities, pursuant to the grant of immunity conferred on said Dean by order of this court."

Mr. Dean has been heavily implicated in the planning of the break-in at the Democratic National Headquarters at the Watergate complex on June 17, 1972, and the subsequent White House attempts to cover up the matter.

After the court hearing today, Mr. Neal would not say what was inside the package turned over to the court.

Mr. Dean's lawyers have argued before the same court that the old team of Federal prosecutors met with Mr. Dean

"for extended periods of time on numerous occasions," and that he provided a "plethora of information" explaining his own involvement and that of others.

At the time, Mr. Dean was bargaining for immunity in exchange for his testimony and, his lawyers argue, his cooperation with the prosecutors was "on the equivalent of a use immunity basis."

His lawyers are believed to be banking on this informal "immunity" to protect their client.

Nixon View Interpreted

Meanwhile, the lawyer for two major figures in the Watergate case contended today that President Nixon's statement of May 22 that he would not invoke executive privilege in relation to criminal aspects of the Watergate case applied only to oral testimony and not to documents.

John J. Wilson, an attorney for H. R. Haldeman and John D. Ehrlichman, said that the two former top men on the White House staff had been allowed to look at White House documents since their resignation April 30. But, he said, they are not allowed to reprint any of the documents for use in a possible defense or to remove any of them.

Mr. Wilson said that the "eyes only" practice at the White House, plus his interpretation of the President's statement, appears to mean that executive privilege is still in force except for oral testimony.

Mr. Haldeman was in the middle of giving a deposition in the \$6.4-million Democratic party damage suit on May 22 when the Presidential change on executive privilege came about.

"It pulled the rug out from under us," Mr. Wilson said at an impromptu news conference at the rear of a Federal courtroom today. "We didn't have any executive privilege left," he said.

Discussed More Matters

Mr. Haldeman, who had been White House chief of staff, subsequently went into a number of matters in the deposition that he had previously ruled out on the ground of privilege.

However, Mr. Wilson said, his reading of the President's statement and the practices at the White House convince him that privilege is still intact for written documents.