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John Dean: Still the Prosecution's Star Witness

The stunning acquittal by the Mitchell-Stans jury, while lifting flagging spirits at the embattled White House, falls far short of what the Nixon camp hopes it will accomplish: the destruction of John W. Dean III as star prosecution witness.

In both congressional impeachment proceedings and the Watergate cover-up trials, Dean has assets he lacked in the New York trial of ex-Cabinet members John Mitchell and Maurice Stans. Whereas Dean's association with the Vesco case was tangential and his testimony uncorroborated, his involvement in the Watergate conspiracy is intimate and his accusations at least partially supported by tape recordings and other witnesses. What's more, the message from the Manhattan trial to Special Prosecutor Leon Jaworski is clear: Dean must be presented to future juries with far more care.

In short, White House reports of Dean's death as a reliable witness are greatly exaggerated. Indeed, the fact that John Dean can still testify promises intensified assaults on him based on the Mitchell-Stans acquittal. Vice President Ford's immediate assertion that the verdict "severely eroded" Dean's credibility sets the tone for the rising assault.

The Mitchell-Stans case was never

viewed in legal circles here as a conclusive test of Dean's credibility. The U.S. Attorney's office in New York brought the Mitchell-Stans indictment a year ago despite pleas for caution from Washington counterparts, then conducting the Watergate investigation. As Attorney General, Elliot Richardson was always leery about the case.

Lacking documentary evidence, the prosecution relied on witnesses—Bradford Cook, ousted chairman of the Securities and Exchange Commission, and discredited New Jersey politician Harry Sears—who proved to be disasters on the stand. Dean, playing only a minor role in the Vesco affair, could not compensate for inadequate key government witnesses.

Nevertheless, the Mitchell-Stans defense lawyers did undercut Dean's credibility with the jury. By describing him as a confessed felon who was now talking solely to buy a lighter sentence, the Mitchell-Stans lawyers established the model defense for accused Watergate conspirators.

Dean's friends believe the New York prosecution inadequately prepared the jury for his testimony and hope Jaworski will take note. Such preparation would present Dean as a man who could have weathered the storm had

he denied everything and joined fellow Nixon lieutenants in non-cooperation but instead invited a prison term to break the conspiracy. Dean's decision to go secretly to the U.S. prosecutor came two weeks before he first feared the White House had marked him as the Watergate scapegoat.

But such a gliding of Dean must be restricted to the courtroom, thanks to gag rules imposed by Federal Judges John Sirica and Gerhard Gesell. On Feb. 15, Gesell tongue-lashed Jaworski for his televised defense of Dean's credibility and ordered him off TV talk shows. Thus, while government officials from the President and Vice President on down can assault Dean, the prosecutors cannot defend him.

Jaworski and his men accordingly have no comment whatever—even off-the-record—on the Mitchell-Stans verdict. But there is no doubt here that Jaworski remains confident of Dean's veracity and will build his cases around him.

While not diminishing reliance on Dean as star witness, the New York acquittals will surely urge greater caution on Jaworski's team—realistic indictments and meticulously prepared cases. Jaworski's commendable caution in toning down some overblown

charges originally contemplated by his hot-blooded young lawyers has now been vindicated.

Long before juries are empaneled in Watergate cover-up cases, however, Dean's credibility will be tested in the House impeachment proceedings. Consequently, the attack by the White House propaganda machine on Dean's credibility will intensify, based on the Mitchell-Stans verdict.

A rare public defense, not only of Dean's credibility but his role in history, was made last week in the University of Oklahoma Law Day lecture by Robert C. McCandless, formerly Dean's co-counsel. "Had he not come forward, leaving aside motives, America's democratic processes and our precious civil liberties would today be in grave peril without his decision to testify, and without the prosecutors' being able to use that testimony as a grapping hook to break the wall of the cover-up and conspiracy," said McCandless.

McCandless is no objective source, but he correctly defined Dean's crucial role in breaking the scandal. As such, Dean remains the major threat to the President in a form scarcely diminished by the "not guilty" verdict in New York.