

VERSIONS DIFFER ON SILBERT TALKS

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Dean Account of Discussion With Judge at Variance With Prosecutor's NYTimes

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WASHINGTON, May 7—An examination of transcripts has disclosed a conflict in versions of how closely a Federal judge and a Watergate prosecutor may have worked together—if at all—in the early days of the Watergate investigation.

In the White House transcripts of tape recordings released by President Nixon last week, John W. Dean 3d, described a hallway meeting between Judge Charles R. Richey of United States District Court and Earl J. Silbert, then an Assistant United States Attorney who headed the investigation.

Mr. Dean said that, based on their conversation, it was apparent that depositions in the civil suit brought against the President's re-election committee would be stopped. He told the President the news on Sept. 15, 1972. That was six days before the judge announced his decision to stop taking further depositions in the suit.

Grieved at Hearings

Mr. Silbert, who has been nominated by President Nixon to be the United States Attorney for the District of Columbia, was asked about his meetings with Judge Richey during confirmation hearings last April 23.

He said only that he took part in a pretrial conference on Sept. 21 at the judge's request and because of possible conflict

between upcoming criminal trials and the civil damage suit brought by the Democratic National Committee.

Judge Richey, asked today about the meeting described by Mr. Dean, said, "It is just not true."

Asked to comment today, Mr. Silbert declined. He said his nomination was still before the Senate Judiciary Committee and he had decided not to discuss matters "within the parameters of the Senate hearing."

The judge also labeled other statements made at that White House meeting — statements that implied improper behavior on his part—as "sheer poppycock."

At the meeting, attended by President Nixon, Mr. Dean and H. R. Haldeman, Mr. Nixon's chief of staff, the three men discussed a pending damage suit by the Democratic National Committee against the Committee for the Re-election of the President that resulted from the burglary of the Democrats' headquarters at the Watergate office building here on June 17, 1972.

They also discussed a countersuit. Maurice H. Stans, head of the Finance Committee to Re-elect the President, had filed a libel action against the Democrats.

Mr. Dean said that the Stans libel action had been assigned to Judge Richey and that the judge "has made several entrees off the bench — one to Kleindienst and one to Roemer McPhee to keep Roemer abreast of what his thinking is. He told Mr. Roemer he thought Maury ought to file a libel action."

The references were to former Attorney General Richard

G. Kleindienst and H. Roemer McPhee, lawyer for the Republican National Finance Committee. Mr. McPhee is a neighbor of the judge in suburban Potosi, Md.

Mr. Dean noted that the Democrats' case "drew to a halt" and that pretrial statements under oath had been discontinued.

"It was just put off for a few days, wasn't it?" Mr. Haldeman asked.

"It did more than that," Mr. Dean replied.

"He had been talking to Silbert, one of the Assistant U. S. Attorneys down here. Silbert said, 'We are going to have a hell of a time drawing these indictments [in the Watergate burglary case] because these civil depositions will be coming out and the grand jury has one out on this civil case but it is nothing typical.'"

After a brief interruption, Mr. Dean continued:

"Based on that when Silbert had told Richey this and with a casual encounter—in fact it was just in the hall, so Richey stopped the civil case so Silbert can get the indictment down."

The White House conversation took place Sept. 15, six days before Judge Richey decided to cut off further pretrial depositions.

The White House transcript is the first to indicate possibly how these arrangements may have been made.

The canons of judicial ethics of the American Bar Association state:

"A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard

according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding."

The bar association's code of professional responsibility for lawyers includes a somewhat similar provision barring improper contacts with judges.

Judge Richey said he had done everything he could to hurry along the Democratic damage suit but that lawyers for both sides had agreed that it could not be tried before Election Day in 1972.

Mr. Dean, testifying before the Senate Watergate committee last June 25, had first mentioned such a contact with a judge.

Nixon Interest Reported

He testified that President Nixon had been interested in delaying the criminal case.

"I then told the President that the lawyers at the re-election committee were very hopeful of slowing down the civil suit filed by the Democratic National Committee because they had been making ex-parte contacts with the judge handling the case and the judge was very understanding and trying to accommodate their problems," Mr. Dean told the Senators.

He also told the committee that Mr. McPhee had been meeting with former Attorney General John N. Mitchell and was having "private discussions with Judge Richey regarding the civil suit."

Mr. Dean said that he had been told by Kenneth Wells Parkinson, former lawyer for

the re-election committee, and by Mr. McPhee that "Judge Richey was going to be helpful whenever he could."

Judge Richey said today that he would stand on the public record in his handling of the case.

That record includes praise for the judge in his efforts to move the case along by lawyers from both sides.

Joseph A. Califano, then representing the Democrats, praised the judge's "absolutely extraordinary attempt" to try the case before the election.

"Well, Mr. Califano," Judge Richey replied, "I must say that I have tried to the nth degree to do this and almost to the point of the last remaining bit of strength that remains in my body."

The judge said today that "I never talked to Silbert off the record, to the best of my knowledge."