

John Dean's Continuing Imprint

By JUDE WANNISKI

One of the most widely ignored documents issued by the White House lately is its 32-page memorandum comparing tapes of Oval Office conversations with the televised testimony of John Dean before the Ervin Committee. The document received almost no press attention, although it did foster numerous stories that the White House was trying to defend the President by attacking Mr. Dean.

The reason for this lack of interest in the substance of the memorandum was best put by Carl Stern of NBC: "The fact is that all of Mr. Dean's conversations with the President are public record now. We don't need Dean any more to know the truth. If he dropped off the face of the earth tomorrow, it wouldn't make any difference."

Even so, the matter of Mr. Dean's credibility is of critical importance to understanding the defense Mr. Nixon has and will offer. When Mr. Dean made his stunning charges against the President last June, an opinion poll indicated only 17% of the people disbelieved him. His crisp, methodical delivery made it seem he had an incredible memory for detail. And the net result of his testimony was to fix in the public mind the belief that the President was masterminding the cover-up. Its thrust was that while he told the President the complete details of the cover-up on March 21, 1973, his conversations with the President on Sept. 15, 1972, and on Feb. 28 and March 13, 1973, indicated the President knew plenty of what was going on.

Mr. Nixon's defense, by contrast, is that he had at most only cursory knowledge of anything amiss before March and that he was not hit with the full impact of the cover-up story until April 15, that through this period he was a man stumbling in the dark, groping for a solution to the wrong problem. It is in this context that the White House asks the tapes be read and the President's actions understood. But Mr. Dean's testimony so firmly planted the idea that the President knew all along that almost any reader assumes the President knows far more than the tapes show him learning, and judges his reactions accordingly. Thus, to understand the President's defense, the first step is to shake off the Dean imprint by recognizing the full extent of the things Mr. Dean had wrong.

Mr. Dean testified that on Sept. 15, 1972, the President expressed pleasure "that the case had stopped with Liddy"; that Mr. Nixon told him that Mr. Haldeman had been keeping him, the President, "posted or made aware of my handling of the various aspects of the Watergate case"; that he recalled "very clearly" telling Mr. Nixon the Watergate matter "had been contained"; that he told Mr. Nixon he, Dean, could not take credit because others had done "much more difficult things than I had done," and "by that I was referring to the fact that Mr. Magruder had perjured himself." The tape of the meeting indicates none of this was said.

Cover-Up Testimony

Five separate times Mr. Dean testified that he told Mr. Nixon on Sept. 15 that he "was not confident that the cover-up could be maintained indefinitely," that he "could make no assurances that the day would not come when this matter would start to unravel." Instead, the tapes indicate Mr. Dean told Mr. Nixon "I think I can say that 54 days from now nothing is going to come crashing down to our surprise."

He further testified that Mr. Nixon asked when the case would come to trial, and that the President said "that he certainly hoped that the case would not come to trial before the election." The tapes indicate the President made no such statements.

Mr. Dean testified that on Feb. 28, he told the President he, Dean, was involved in the post-June 17 activities regarding

Watergate, that he had legal problems in that he had been a conduit for information and "therefore could be involved in an obstruction of justice," but that Mr. Nixon reassured him "not to worry." The tapes indicate Mr. Dean made no such revelations to Mr. Nixon on Feb. 28, but did so on March 21.

Mr. Dean testified that on March 13 he told Mr. Nixon that the Watergate defendants were making money demands, that it might take \$1 million to satisfy them, and that "The President then referred to the fact that Hunt had been promised executive clemency." The tapes indicate the money discussion did not take place until March 21. At no meeting does Mr. Nixon refer to anyone promising Mr. Hunt clemency, although there is discussion of an eventual possibility of clemency.

Mr. Dean testified that on March 21, he "certainly told the President everything I knew at that point in time." The tapes indicate Mr. Dean did not tell Mr. Nixon about those areas in which he, Dean, was personally involved. According to the White House, the significant matters Mr. Dean did not divulge to Mr. Nixon were these: (1) that Dean had assisted Magruder in preparing his grand jury testimony; (2) that Dean had authorized promises of executive clemency to be made to Watergate

defendants; (3) that he had personally handled money which went to the Watergate defendants; (4) that he had delivered documents from Hunt's safe to F.B.I. Director Gray; (5) that Dean had personally destroyed documents from Hunt's safe; or (6) that Dean had ordered Hunt out of the country, and then retracted the order.

Mr. Dean testified that on March 21 he told the President, in the presence of Mr. Haldeman and Mr. Ehrlichman, that the three of them, not including Mr. Nixon, were "all indictable for obstruction of justice." The tapes indicate Mr. Dean told Mr. Nixon, alone, that Messrs. Dean, Mitchell, Haldeman and Ehrlichman are involved in "what may be an obstruction of justice."

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Dean's, revelations of March 21. A tape of the Nixon-Dean meeting of March 22 indicates Mr. Nixon suggested Mr. Dean go to Camp David to write such a report.

It now turns out that most of what Mr. Dean testified as occurring on Sept. 15 or Feb. 28 or March 13 actually happened on March 21. Whether this was done willfully by Mr. Dean or was simply a matter of his memory playing tricks on him while he was under pressure is not important to Mr. Nixon's defense. What is important to the President is the public's realization that at no time up to and including the famous meeting of March 21 did John Dean reveal to the President the genuine criminal liabilities of John Dean. That he coached Magruder. That he authorized clemency promises. That he destroyed documents. That he ordered Howard Hunt out of the country.

If Mr. Nixon has been told all this on March 21, it stands to reason that his actions in that famous meeting would have been a good deal more incisive. If he had such knowledge, clearly his backing and

filling during that meeting would deserve every bit of the criticism it has received. Yet given the Dean imprint, it's hard to recognize how little the President knew, and to judge him in that context. For if you look strictly at what the tapes show him learning, a different picture of that meeting emerges.

The problem Mr. Dean puts to him on March 21 is this:

Jeb Magruder had pre-knowledge of the Watergate burglary and perjured himself to cover it up, a clear indication to Mr. Nixon the whole issue will be opened up again.

Neither he, Dean, Mr. Ehrlichman, Mr. Haldeman or Mr. Mitchell had pre-knowledge, that while Mr. Mitchell approved the plan he has no culpability: "Mitchell probably puffed on his pipe and said, 'Go ahead,' and never really reflected on what it was all about," Mr. Dean reassures the President.

Yet even if no one in the White House were in fact guilty of anything, the reopening of the case would give Mr. Nixon enormous publicity and public relations problems. As Mr. Dean put it during the meeting, "What really troubles me is one, will this whole thing not break some day and the whole thing—domino situation—everything starts crumbling, fingers will be pointing Bob [Haldeman] will be accused of things he has never heard of and deny and try to disprove it. It will get real nasty and just be a bad situation. And the person who will be hurt most will be you and the presidency. . . ." To which Mr. Nixon, giving his then-impression of the seriousness of the matter, responds, "First, because I am an executive, I am supposed to check these things."

In other words, one thing very much on the President's mind, and Mr. Dean's, was whether unfair charges would be leveled in public. On the basis of what he knew, Mr. Nixon had to worry about whether careers of his most trusted aides would be unfairly ruined. No doubt his concern over this was heightened by his own experience, having nearly been run off the Republican ticket in 1956 in a publicity blitz.

To judge, of course, how much of the "cover-up" was designed to calm unfair charges in the press, and how much was designed to impede justice, one needs to know the extent of Mr. Nixon's knowledge of criminal liabilities in the White House. The transcripts show that Mr. Dean told Mr. Nixon that Haldeman, Ehrlichman, Mitchell and Dean are involved in "what may be" an obstruction of justice. Mr. Dean says this is the most "troublesome"

problem, and he may have to go to jail. The President refuses to take this seriously.

But of what, so far as the transcripts show Mr. Nixon's personal knowledge, does this "obstruction of justice" consist? Not of coaching for perjury or the destruction of evidence. So far as Mr. Dean explained it on March 21, the offense was this:

Mr. Dean: "Alright, then they started making demands, 'We have to have attorneys fees. We don't have any money ourselves, and you are asking us to take this through the election'; All right, so arrangements were made through Mitchell, initiating it. And I was present in discussions where these guys had to be taken care of. Their attorneys fees had to be done."

Obstruction of Justice Question

Whether or not this would constitute an obstruction of justice presumably will be argued in court when the cover-up case comes to trial. But in general it would be an obstruction only if the payments had

the quid pro quo of refusing to testify. In and of itself, the payment of attorneys fees is legal and common in celebrated cases, such as for example the Hiss trial. How it struck the President is evident in a later conversation, on April 14:

Haldeman: That was the line they used around here. That we've got to have money for legal fees and family.

President: Support. Well, I heard something about that at a much later time.

Haldeman: Yeah.

President: And, frankly not knowing much about obstruction of justice, I thought it was perfectly proper.

Ehrlichman: Well, it's like—

President: Would it be perfectly proper?

Mr. Nixon's inclination not to take the obstruction of justice very seriously, thus, is far more understandable if you recognize what Mr. Dean had and had not told him at the time. So, for that matter, is the President's willingness to consider paying an additional \$75,000 to Mr. Hunt.

The President's first reaction to this demand is to suggest that it be met "damn soon . . . or we don't have any options." He also considered the payment of blackmail indefinitely, but seemed to reject this course when the alternative of taking everything to a new grand jury arose. Many readers of the transcripts, including the editors of this newspaper, have suggested that the total context carries an implied understanding that immediate payment should be made to buy time. Yet interestingly, while Mr. Dean remembered this money discussion occurring on March 13, not on the 21st, his impression of the results of the meeting were recorded before the Ervin Committee: "the money matter was left very much hanging at that meeting. Nothing was resolved."

Mr. Dean's Memory

And if you strip away the impression that the President knew everything, Mr. Dean's memory becomes more persuasive. For as an alternative arose to the payment of permanent blackmail, so too the transcript shows an alternative arising to the payment of temporary blackmail to buy time. In originally presenting the problem, Mr. Dean said that Mr. Hunt's deadline on this payment arose because his sentencing was imminent. Toward the end of the March 21 meeting, the alternative to payment emerges:

President: If they are going to sentence on Friday, we are going to have to move on the (expletive deleted) thing pretty fast.

Dean: The other thing is that the Attorney General could call Sirica, and say that "The government has some major developments it is considering. Would you hold off sentencing for two weeks . . . ?"

President: I wouldn't take two weeks. I would take a week.

And if at any time during the meeting the President issues final marching orders, it is in this paragraph near the end:

President: You could recommend it and he could come over and I would say, "Now Petersen, we want you to get to the bottom of the damn thing. Call another Grand Jury or anything else." Correct? Well, now you gotta know whether Kleindienst can get Sirica to hold off. Right? Second, you have to get Mitchell down here. And you and Ehrlichman and Mitchell by tomorrow.

This interpretation of the March 21 meeting will of course cause great gnashing of teeth among people who have read the transcript and *know* what it says. But first impressions may not be the best way to judge the meaning of the conversation; probably only after arguments between John Doar and James St. Clair will the real context become clear. At least, the teeth-gnashers have to ask themselves how much their reading is based on a careful analysis of the meeting, and how much it has been colored by Mr. Dean's testimony on television last summer.

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