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Dean Offers Files to Judge

By Lawrence Meyer
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Former White House counsel John W. Dean III asked Chief U.S. District Judge John J. Sirica yesterday to accept custody of nine documents that Dean indicated are related to the Watergate affair.

Lawyers for Dean, who was fired by President Nixon on Monday, turned over to the court two keys to a safety deposit box where Dean says he has placed the documents. The keys are being held by the court until Sirica determines how to handle the matter. Sirica said he may hold a hearing on the matter next week before making a ruling.

Precisely what was in the documents, which the court papers say are in a safety deposit box in the Alexandria National Bank, was not revealed. Dean's lawyers could not be reached for comment.

In related developments:

- Former White House aides H. R. (Bob) Haldeman and John D. Ehrlichman were interviewed by the staff of the Senate select committee investigating the Watergate affair.

- Three former administration or Nixon campaign



JOHN DEAN

... holds documents

officials — Robert Mardian, Frederick C. LaRue and Egil Krogh—were reportedly interviewed by government prosecutors.

- New White House guidelines on executive privilege, described by the White House as being designed to facilitate the questioning of witnesses, were challenged by some legal observers as being an expansion of the doctrine over what previous administrations have claimed.

According to the papers filed by his lawyers, "Dean

See **PROBE, A8, Col. 4**

PROBE, From A1

has had within his possession and subject to his control a certain document containing 43 numbered pages together with eight related supplementary documents plastic bound in a blue cover and carrying a security classification . . . that Dean has reason to believe" are related to the Watergate investigation under way by the Senate select committee chaired by Sen. Sam J. Ervin Jr.

White House sources have said that Dean has kept records and other documents that he believes constitute circumstantial evidence that former White House aides Haldeman and Ehrlichman, whose resignations were announced Monday, directed a cover-up of the Watergate affair.

In addition, the sources have said, Dean has written a history of his version of the Watergate bugging and what was done to prevent public disclosure that President Nixon's aides were responsible for it.

Dean's lawyers said that even though the Mansfield letter was a "request," it may constitute a directive that, if ignored by Dean, could place him in contempt of the Senate.

Dean lost his security clearance when he was fired.

On the other hand, Dean's lawyers said, federal law prohibits turning over classified information to any unauthorized person "excepting the lawful demand of information" to a congressional committee.

Dean asked the court to accept custody of the documents so that he will have fulfilled his obligations under the law and Mansfield's request.

At the same time the Senate committee staff was interviewing Haldeman and Ehrlichman, who spent a total of almost seven hours between them Thursday testifying before the grand jury, prosecutors were reported to be interviewing Mardian, LaRue and Krogh. The grand jury was present yesterday but it could not be

Dean said that before Monday, the day he was fired, "anticipating the reasonable likelihood of either (a) a covert break-in to his office before his termination by persons unknown, or (b) sealing of his files after his termination by governmental agents and thereby run the risk of illegitimate destruction of the documents involved, (he) removed the documents described to a safe and secure place under his custody and control."

On Thursday, the papers said, Dean took out a safety deposit box and put the documents in it.

As background, Dean referred to a letter dated Jan. 16, 1973, from Senate Majority Leader Mike Mansfield (D-Mont.), alerting Dean to the Senate's intention to investigate the Watergate affair and requesting that Dean "not destroy, remove from your possession or control, or otherwise dispose of any records or documents which might have a bearing on the subjects under investigation."

determined whether it heard any testimony.

LaRue and Mardian, both former officials of the Committee for the Re-Election of the President, participated in a "housecleaning" of committee documents following the arrest of five men inside the Democratic National Committee's Watergate headquarters on June 17, according to reliable sources. The "housecleaning" involved the destruction of numerous records, sources said.

In addition, Mardian sat in on FBI interviews with committee employees with LaRue and reportedly advised some persons to "stay away from certain areas" in their discussions with investigators.

Gordon Strachan, former principal political aide to Haldeman, reportedly told the grand jury that Haldeman ordered him to give LaRue \$350,000 from a fund Haldeman maintained in the White House. The money was reportedly used to pay the seven convicted Water-

gate conspirators. The grand jury is investigating the possibility that the payments constituted "hush money" to keep the conspirators from revealing what they knew about the Watergate affair to federal investigators.

The payments to conspirators from campaign funds have not been reported to the General Accounting Office.

In Key Biscayne, Presidential Press Secretary Ronald Ziegler told reporters that new guidelines issued by the White House Thursday on present and former White House aides invoking executive privilege (the right, not to answer certain questions) came after they were "requested by the attorneys from some of those who were giving testimony."

Ziegler said he could not identify who had requested the guidelines or if John J. Wilson, the lawyer for Haldeman and Ehrlichman, had asked for them.

Although a White House source said the guidelines were designed to facilitate

the questioning of witnesses, two prominent lawyers associated with the Kennedy and Johnson administrations both said the guidelines broadened the doctrine of executive privilege beyond anything previously described by a President.

A lawyer who worked in the White House under President Johnson said that the view of both Presidents Kennedy and Johnson was that only the President could order executive privilege to be invoked by an administration official.

The new guidelines say past and present members of the White House staff, when being questioned by the FBI, the Ervin committee or a grand jury should invoke the privilege only in connection with conversations with the President, conversations among themselves—involving communications with the President—and as to presidential papers. Presidential papers are all documents produced or received by the President or any member of the White House staff in

connection with his official duties."

Including all presidential papers "doesn't make any sense," the former White House lawyer said. "It just can't be that every document produced by the President and the White House is privileged. That just cannot be. There are thousands and thousands of documents produced by the White House."

In addition, the lawyer said, if the President received communications about illegal activities, "I do not think that conversation is privileged. That conversation is outside the scope of the duties of the Chief Executive or the Commander in Chief. . . . Not every communication, it seems to me, is privileged."

Former Attorney General Ramsey Clark, who had the guidelines read to him in a telephone interview, said they appeared to break new ground. "I think in an open society, the order is intolerable," Clark said. Clark served as attorney general under President Johnson.

Clark recalled that in 1960 President Eisenhower issued an order declaring that executive privilege could be invoked only by direction of the President. Clark said that both Presidents Kennedy and Johnson reaffirmed President Eisenhower's directive.

Referring to the new directive, Clark said, "it would seem incredibly sweeping. It would seem to apply to all papers produced or received. That's just enormous. They have a huge staff there (in the White House). They're receiving thousands of documents daily. It would seem to me to be more sweeping than any in our history if it really means received by or prepared by any member of the White House staff."

Ervin said Thursday that he found nothing in the guidelines to quarrel with, but in any case the Senate select committee—not the White House—would determine the guidelines for the investigation.