

Chapin Raises Issue

Watergate Prosecutors To Call Dean as Witness

By George Lardner Jr.
Washington Post Staff Writer

h2/h3

Watergate prosecutors confirmed yesterday that they intend to call former White House counsel John W. Dean III as a witness in forthcoming trials despite claims that his testimony should be prohibited.

The issue was raised by President Nixon's former appointments secretary, Dwight L. Chapin, who has said that he intends to invoke the attorney-client privilege to block Dean's testimony.

In a reply memorandum filed in U.S. District Court here yesterday, Watergate Special Prosecutor Leon Jaworski denied that such a relationship existed.

He also indicated confidence in Dean's reliability despite sharp attacks on it yesterday from Senate Minority Leader Hugh Scott (R-Pa.).

Scott said secret materials he has seen at the White House convinced him that Dean should be charged with perjury for several statements implicating Mr. Nixon in the Watergate cover-up.

Watergate prosecutors reportedly have found no basis for such charges against Dean. Jaworski refused to make any direct comment on Sen. Scott's allegations, but the special prosecutor made clear that he still considers Dean a solid enough witness to testify at Chapin's trial and presumably others.

"The court filing speaks for itself," a spokesman for Jaworski said when asked if it amounted to a vote of confidence in Dean's testimony.

Chapin faces trial here April 1 on four counts of lying to a federal grand jury during questioning about the activities of political saboteur Donald H. Segretti.

Jaworski said the evidence the government plans to elicit from Dean involves Chapin's knowledge of Segretti's work and includes "communications

on that subject between defendant (Chapin) and Mr. Dean."

As White House counsel, "Mr. Dean's primary 'client' was the United States, and the office of the President, not the subordinate employees and officials employed at the White House," Jaworski said in his memo for U.S. District Judge Gerhard A. Gesell.

In addition, the Watergate prosecutor said, Segretti's activities had come under investigation by the FBI in the summer of 1972 and "were clearly a matter in which the United States had a direct and substantial interest."

Federal law, Jaworski said, prohibits government officials from representing anyone in such circumstances. As a result, he argued, Chapin cannot invoke an attorney-client privilege even if Dean were advising him on that basis.

"The privilege," Jaworski said, "does not apply to communications designed to secure assistance in the perpetration of a future crime or fraudulent wrongdoing."

Emphasizing the importance that Watergate prosecutors apparently attach to Dean's testimony, Jaworski asked that the controversy over it be settled before trial so that he could appeal any adverse decision.

Chapin has also contended that he cannot get a fair trial here because the predominantly black, Democratic population would be "particularly offended" by racial campaign tactics that he allegedly approved as Segretti's "boss."

Jaworski maintained that a shift of the trial on that basis would be "highly improper." He said Chapin has no legal right to complain that his jurors are likely to be black Democrats. Any "emotive evidence" produced at the trial, Jaworski argued, can be dealt with by "proper cautionary instructions" from the court.