

WXPost JUL 1 1973

Dean's Rich Fabric of Detail Weaves Sticky Web of Facts

By William Greider
Washington Post Staff Writer

The drama is too incredible for fiction—the President of the United States ensnared in a sticky web of facts laid down by a faceless young lawyer who used to serve him.

But it's real. What John Dean said about the President, if the jury believes him, is enough to threaten a tragic ending.

News Analysis

For the purposes of history, the jury is all of us, the American people.

For five days, the 34-year-old lawyer carefully defended his version of Watergate, an ordeal which he survived with his consistency more or less intact. Now the public has to untangle the web which he described. People have to decide what it is they heard during the marathon of testimony and what it is they believe.

The verdict won't be in until the other principal witnesses have been heard from—perhaps including the President—who undoubtedly will challenge Dean's story. Even now, the outline can be traced, the points where various White House versions conflict or agree with what Dean said last week.

Whatever one thinks of the man and his motives, John Dean clearly won this point—he can't be brushed aside, as some

White House people had hoped. His account was too richly detailed, his assertions too strong and too steady.

The potency of Dean's performance is conceded by an adversary, a fellow lawyer who is close to the White House, one of the men who Dean says should be indicted for obstruction of justice. The lawyer thinks John Dean got some facts wrong, but he gives the witness a remarkably high score, considering the damage which Dean did.

"I find about 80 per cent of Dean's testimony correct," this lawyer said, "and 10 to 12 per cent wrong just because you can't remember and the rest, the other 10 per cent, the human factor, that you don't look at yourself every morning and say, 'What an ugly face,' or 'I'm the bad guy in this!'"

If you sort out the allegations in Dean's testimony, his case against Mr. Nixon can be reduced from the blizzard of detail and documents to a halfway manageable list of factual assertions. To do that coherently, you have to set aside some of the corollary crimes that have been charged against the White House—the Ellsberg psychiatrist's burglary, the political "enemies" scheme, the secret plans for illegal domestic spying.

Those are all relevant perhaps as circumstances which reflect White House behavior, but this story focuses on the

See WITNESS, A14, Col. 1

WITNESS, From A1

narrower question asked by Sen. Howard Baker the other day:

"What did the President know about Watergate and when did he know it?"

The answer, as described by Dean, leads to still other questions about the behavior of the President and his former counsel, questions which are even more tantalizing because they are still beyond the arc of factual conclusions. Neither side has a monopoly on the implausible.

Double Assumption

At this point in time, as the White House alumni like to put it, nobody has made any forceful assertion that President Nixon knew about the Watergate wiretap plot before its bungled execution in June 1972. That includes Dean (who claims he didn't know himself even though he attended two early meetings on it).

Dean makes a double assumption in order to conclude that the President knew pre-Watergate. First, he assumes that, if the wiretap data was going to Gordon Strachan, an aide to H. R. Haldeman, then Strachan was undoubtedly reporting it up to Haldeman. Two other witnesses have said that, indeed, it was going to Strachan. In turn, Dean assumes, Haldeman was undoubtedly reporting it up to the President himself.

"I cannot testify of any firsthand knowledge of that," he conceded, but that's the way the White House worked when he was there.

After the burglary at the Democratic National Committee and the arrests on June 17, Dean's evidence against the President becomes more pertinent because, by his own admission, he was right in the middle of the White House cover-up—running errands, giving orders, hiding the evidence.

The crime consisted of several parts—the arrangement of perjury, hush money to the Watergate Seven, pre-trial promises of executive clemency, an attempt to use the CIA as a cover, and destruction of incriminating documents at the White House and the Committee for the Re-election of the President. There is one other, more ambiguous, element—the attempts to keep Justice Department investigators from digging too hard.

How much did the President know about these specifics?

If you were a Nixon lawyer re-reading Dean's testimony, reducing the damage to its absolute minimum, you might characterize it this way:

Even if you believe Dean's every word, he only met once with Mr. Nixon over an eight-month period after the break-in. That was on Sept. 15, the day the Watergate Seven were indicted and the President called him in for a report.

They discussed the related political controversies, the House hearings on Watergate which the President naturally wanted to avoid in the middle of his re-election campaign, as well as the various civil lawsuits connected to Watergate, according to Dean. Dean admits that Mr. Nixon did not say anything directly about those specific cover-up elements he was pursuing.

Dean didn't see the President up close again until Feb. 27, 1973, even by his own account. He claims that there were then three meetings within a month in which parts of the cover-up were explicitly discussed by him or by the President. In two of those meetings—Feb. 27 and 28—they were together alone so it is Dean's word versus himself.

At the third meeting on March 13, the White House acknowledges that Dean, Haldeman and the President talked about the continuing

thorn of Watergate and who among their troops might be responsible. Dean, according to reconstructed logs from the White House did mention that maybe Gordon Strachan was involved. But the President then urged Dean to produce a written report on the whole affair.

Dean's account of that March 13 meeting claims that the President explicitly discussed two key elements of the cover-up conspiracy—the pre-trial promise of executive clemency and the need to raise \$1 million to keep the Watergate Seven silent. Haldeman and the President, based on what the White House has said to date, are prepared to deny both points.

Nixon Probe

That leaves only the crucial meeting of March 21. Dean, of course, did meet with the President at least 20 other times during this period, but his testimony does not claim any direct conversation with the President at those meetings about illegal activities.

What happened March 21? The White House agrees that Dean spilled the awful truth—or at least part of it. But the President also claims it was March 21 that he launched his own investigation. Therefore, if you follow the White House scenario, the cover-up effectively ended at that date and Dean's comments about later meetings and memos are irrelevant attempts to save himself.

The above is a synthesis of assorted arguments advanced in the President's behalf, his own statements, the defense theory issued last week by White House special counsel J. Fred Buzhardt and the line of reasoning which Sen. Edward Gurney employed when he cross-examined Dean last week.

Unfortunately for the White House, this barebones analysis of what the President said to Dean leaves out a lot of what Dean offered. In addition to the direct expressions, he claims a rich

fabric of corroborative detail, comments and circumstantial incidents which strengthen his claim. Dean's case asserts that presidential innocence and ignorance is implausible against this wealth of small remarks and furious activity which surrounded the Oval Office.

For instance, if you go back to June 17, 1972, again and follow John Dean's chronology, he claims circumstantial evidence to indicate that the President knew what was going on even before their first meeting together on Sept. 15.

Mainly, Dean, as an eyewitness describes Haldeman and Ehrlichman directing the criminal activities—destroying evidence, arranging hush money, and so forth. By the logic of the White House, Dean insists that each of those two men, particularly Haldeman, would not have kept his own fre-

quent progress reports out of the Oval Office.

Plausible Behavior

"I was aware of the fact that often Mr. Haldeman took notes," said Dean. "I know that Mr. Haldeman met daily with the President. I was quite aware of the fact that this was one of the most important and virtually the only issue that was really developing at all. And given the normal reporting channels I worked through, it was my assumption, without questioning, that this was going in to the President."

Haldeman and Ehrlichman, of course, deny that Dean was reporting any criminal cover-up to them last summer or that they were ordering up one. Even if you believe Dean's version, it still leaves you with an unanswerable question about what was plausible behavior, one of many which run through the narrative. Is it plausible that these two top aides conducted these activities or knew about them, but kept the information from the President?

Dean claims that question was settled for him Sept. 15 when the President summoned him to the Oval Office and congratulated him: "Bob has been telling me what a good job you have been doing?"

A lot of history hangs on that ambiguous remark and what "good job" Bob Haldeman had in mind. Did he mean the obstruction activities which kept the Watergate indictments from going higher at CRP and the White House? Or was it a routine and meaningless hello?

Dean claims his own modest response to the President removed any doubt. The Watergate scandal had been "contained" so far, but he was not sure it could be "contained" indefinitely. Now what did that ambiguous word "contain" mean to the President? Dean thought it was obvious.

He offers four other conversational points from that meeting, none of which prove direct knowledge by the President, but all of which imply it—from Dean's standpoint. They talked about an improper contact with the presiding judge in the Democrat's civil suit over Watergate. They talked about how to use the Internal Revenue Service to get even with political enemies after the election. They talked about the alleged bugging of Mr. Nixon's 1968 campaign by the FBI.

The President, Dean said, "told me that Mr. Hoover had informed him that his 1968 campaign had been bugged and the President said this is something that we may be able to use ourselves at some point down the road to explain the fact that we have been subject to the same type of activity."

If you believe Dean's ac-

count of this meeting, but you don't think it is conclusive proof that Mr. Nixon knew what was going on, Dean's next evidence directly implicating the President doesn't appear until January. In the autumn months, of course, Dean was a busy man, arranging various aspects of the cover-up but none of his dealings were with the Chief Executive.

Among other things, Dean was playing go-between for a message to key defendants, promising that, if they kept their mouths shut, they could count on early release from prison by executive clemency. Only the President, of course, has the power to grant that.

Dean claims that on Jan. 4, Ehrlichman told him that he had consulted the President and the promise of executive clemency was secure. The next day, according to Dean, Charles Colson also told him that he too had checked with the President and won the same assurances. Normally, Dean's version would be inadmissible as "hearsay" evidence but, as Senate counsel Samuel Dash pointed out, second-hand conversation is legitimate testimony in a conspiracy case. Colson and Ehrlichman, of course, both deny it.

The Dean's-eye view of the President skips to late February when he and the other top White House people were preparing defense and counteroffensive measures aimed at the Senate Watergate committee.

Dean helped Haldeman prepare a series of briefing memoranda in this period, listing the options available in the legal-political situation. Dean claims these papers went to the President and, if so, they raise troublesome questions about what the President was thinking.

One memo, prepared by Dean on Feb. 19 or 20, dealt mainly with political and public relations issues but it also included this legal warning on how to handle the Attorney General:

Baker Chat

"A.G. should be asked to remain in office at least one full year from this date (i.e., until hearings have passed) because hearings may well result in request for additional action by DOJ Department of Justice. A.G. can get Henry Petersen—who has the greatest loyalty for the A.G.—to handle sensitive problems with ease. We can't afford bitterness in the DOJ nor can we risk a new A.G. being able to grapple (sic) with some of the potential problems."

Another memo, intended to prepare the President for his private chat with Sen. Howard Baker, vice-chairman of the Senate Watergate committee, expressed this concern:

"If Baker appears to be

truly desirous of cooperating . . . he might be told that there are matters unrelated to the bugging incident per se (e.g., Segretti, Kalmbach) that could be embarrassing and tarnish good people whose motives were the highest. Surely he can appreciate that things which occur at the White House have a degree of sensitivity that occurs nowhere else in government."

Dean's inference is clear: if the President were innocent of any knowledge at that point, his suspicions surely would have been aroused by that language. Or, put another way, if the staff, including Dean, thought the President was still in the dark, they wouldn't have been sending him memos like that.

In any case, a few days later John Dean's role in Watergate and his relations with the President changed dramatically. From being a distant subordinate, Dean abruptly became a close hand at the Oval Office, calling almost daily on the man he hadn't seen twice in eight months. It is a strange development, hard to understand from either side.

On Feb. 27, Dean met alone with Mr. Nixon and claims that he once again expressed the fear that Watergate could not be "contained" forever. The President, he says, not only expressed confidence in him, but added that henceforth Dean should report straight to him, by passing Haldeman and Ehrlichman.

The next day, there was a second meeting alone on Watergate and Dean says he stiffened his warning by telling Mr. Nixon that the White House counsel might be guilty himself of obstructing justice. The President, Dean says, brushed it off as nothing to worry about.

INNER CIRCLE

The White House version does not dispute Dean's sudden familiarity with the President. The semi-official explanation is that Dean, as counsel, was needed nearby

to develop the White House position on "executive privilege" and other legal issues related to the upcoming Senate investigation.

But it raises questions of plausibility for both Dean and the President. For example, if Dean really believed that the message of criminal cover-up was clear to President Nixon back in September, why did he feel the need to warn him all over again in February? A question for the President too: if he truly didn't know anything about the cover-up, why didn't he ring the alarm bell immediately with Dean's first chatter about guilt? The White House logs, as reconstructed by the Senate committee staff, indicate that Dan at least speculated aloud on the guilt of

Strachan and others in this period, more than a month before the President made any public suggestion of staff involvement. Dean's version, of course, is much stronger.

And why did the President suddenly pull Dean inside the inner circle?

For what it's worth, Dean provide one memo from the President himself to support his contention that Mr. Nixon was personally involved in the counterattack activities at this point. The memorandum does not discuss any illegal elements of the Watergate, but it does urge Dean to collect evidence on alleged attacks against GOP campaigns and reflects a rather detailed knowledge by the President of what happened to Republicans in 1972, if not to Democrats.

The March 13, 1973, meeting, according to Dean, confirmed from the President's own mouth what he had heard earlier from Colson and Ehrlichman; namely, that the President had okayed a promise of executive clemency. The President, Dean claims, was also confident that \$1 million could be raised to keep the Watergate Seven happy and quiet. Dean claims the President even asked him how the money was being delivered. That version will be disputed by Haldeman.

Genuine Discussion

In various other meetings, as the climax approached, the White House logs says Mr. Nixon pressed more urgently for a written report from Dean, presumably an attempt to get all of the facts. Dean doesn't remember that.

During this period, Dean does recall consulting frequently with Dick Moore, a presidential aide, on Dean's concern that the President was not reacting to the deepening implications of scandal. Moore has told it somewhat different, according to the Buzhardt summary, suggesting that it was Moore who prodded Dean into finally leveling with the President. Dean does not explain very clearly how he expected the President to

get "out in front" on the Watergate if, as he also claims, the President was up to his ears from the beginning.

Anyway, both Dean and the White House agree that the meeting of March 21 involved a genuine discussion of who faced criminal charges for what. If any earlier remarks could be brushed aside, the President had to know at this point that some of his own people, both in the White House and the campaign committee, had some legal problems.

According to Buzhardt's reconstruction, Dean provided only a "laundered version" indicating that Haldeman, Ehrlichman and Dean "might all have some problem about the financial transactions with the defendants but that he thought they were more technical and political than legal." In other words, they discussed the secret payments to the Watergate Seven.

According to the White House logs, Dean's message was somewhat stronger. He theorized that John Mitchell and Jeb Magruder from CRP both had advance knowledge of Watergate, that maybe Haldeman did too. Ehrlichman and Haldeman were both involved in the hush money but "possibly had no legal guilt."

But Dean's version is the strongest, including a melodramatic warning in private to the President that Watergate was a "cancerous growth" devouring the presidency. One tantalizing element, which even Dean couldn't explain, was the President's response. Mr. Nixon, Dean said, suggested a briefing for the Cabinet. What could he have been thinking of? Was he trying

to keep this young man at arm's length, now that he knew about his guilt? Or was he trying to fight off the truth with obscure remarks? The puzzling comment doesn't help Dean's story any, yet Dean told it to the Senate hearings anyway.

Immunity Plug

Otherwise, Dean's version of March 21 follows the rough outlines of the others with important exceptions. After their private meeting, he and the President were joined by Haldeman and Ehrlichman. Dean claims he mentioned the perjury he had helped arrange; the others say he concealed it. Dean also claims he clearly warned Mr. Nixon that "Haldeman, Ehrlichman and Dean were all indictable for obstruction of justice," a much stronger warning than the other versions. For their part, the others say they talked about all going to the grand jury—but Dean put in a plug for immunity for himself.

If the story ended there, it would be difficult enough to unscramble the truth. Only John Dean insists that the cover-up didn't end on March 21, that it continued for nearly a month more—until the White House discovered that he had been secretly calling on the federal prosecutors and telling his story ahead of the others.

Again, he offers some circumstantial evidence. The White House staffers did not march down to the grand jury. Instead they sent John Dean off to Camp David where he was supposed to write a report about the whole business. Presumably, they were going to "smoke out" his story. In the meantime, press reports implicated Dean more deeply in the bugging.

The President's press secretary, who might have ducked, instead rebutted those stories. On March 26, five days after Dean and the others had discussed their troubles with the President, Ronald L. Ziegler announced that Mr. Nixon had "absolute and total confidence" in Dean.

Why should the White House embrace him, as Dean put it, if he was so suspect? According to Ziegler's first account, the President phoned Dean to assure him of his continuing faith. Later, Dean success-

fully contradicted that version by pointing out that Haldeman had made the call.

Hardly Neutral

A second imponderable from that week begs for a clearer explanation. According to the White House versions, the President decided by March 30 that Dean was deeply implicated and, therefore, he was replaced as investigator. But the President did not turn the case over to the Justice Department or the Watergate prosecutors. He turned it over to Ehrlichman, one of the men whom Dean named as "indictable."

If you don't believe Dean's account, even the milder versions indicate that Mr. Nixon knew on March 21 that Ehrlichman was involved in the hush money to the defendants and that E. Howard Hunt was trying to blackmail him with the Ellsberg burglary. At the very least, he was hardly a neutral figure.

What happened next is also in dispute. Dean went to see the prosecutors April 2, hoping to win immunity in exchange for dropping in his White House colleagues. The White House didn't know this, however, until Saturday night of April 14. By coincidence, that is the same day which Ehrlichman claims to have finished his investigation and reported to the President that Dean, Mitchell and Magruder were all in trouble.

Dean believes it was his discussions with the prosecutors which prompted the White House to move finally, that the Ehrlichman report didn't happen. In any case, the President went public three days later, revealing belatedly that he had learned of "serious charges" some three weeks earlier on March 21. He did not say what they were or who they affected. He did not consult the Attorney General and the Justice Department about what he had learned until April 15. The resignations, even Dean's, were not until April 30.

Dean's own final conversations with the Chief Executive that weekend were more bittersweet than substantive.

According to the White House logs, the President told Dean to tell all to the grand jury and not to expect immunity. He also tried to get him to resign, but Dean refused.

Like so many other points along the way, Dean tells it differently. On Sunday night, he says, the President interviewed him in a way that seemed designed to elicit self-incriminating statements. Dean thinks the conversation was recorded, like others in the final days of disarray.

If trust ever existed between those two men, the President and the bright young lawyer, it was gone now. As Dean describes it:

"The most interesting thing that happened during the conversation was, very near the end, he got up out of his chair, went behind his chair, to the corner of the Executive Office Building office and — in a barely audible tone — said to me he was probably foolish to have discussed Hunt's clemency with Colson."

Dean's nasty inference is that the President of the United States was trying to get out-of-range of his own hidden tape recorder.

Former presidential counsel John W. Dean III sets down his version of Watergate during five days of Senate testimony.

By Bob Burchette—The Washington Post

