

WATERGATE TAPES USED TO QUESTION DEAN TESTIMONY

A Strong Cross-Examination
by Mitchell-Stans Defense
Is Based on Transcripts

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WITNESS FIRM ON STAND

Conversations With Nixon
Cited in Moves to Impugn
Ex-Counsel's Credibility
NYTimes

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The defense in the Mitchell-Stans trial used Watergate tapes yesterday to impugn the testimony of John W. Dean 3d. This made for a day-long struggle, as fierce in its way as a prizefight, between the witness and lawyer for the defense.

It was the first time that any of the Watergate tapes had been used in a trial anywhere, and they were used in an attempt to destroy the credibility of Mr. Dean, the former White House counsel, whose testimony is the foundation of the Government case against John N. Mitchell and Maurice H. Stans.

On Monday, Mr. Dean, under direct examination, testified that Mr. Mitchell had tried to get him to persuade Richard G. Kleindienst, then the Attorney General, to interfere with the grand jury deliberations of this case, the very grand jury that ultimately indicted the defendants.

But yesterday Peter Fleming Jr., Mr. Mitchell's chief defense lawyer, was able to use the transcript of a portion of a tape recording made March 20, 1973, as a reference in assailing Mr. Dean's credibility. The tape was of a conversation between Mr. Dean, then White House counsel, and President Nixon.

Pressed by Defense

"Did you tell the President that Mr. Mitchell had called you on March 20 and had asked you to call the Attorney General, your friend, Mr. Kleindienst?" Mr. Fleming asked Mr. Dean.

"Not that part, not the latter part, the former, yes," the witness replied.

"And you spoke to the Pres-

ident about this conversation with Mr. Mitchell, is that correct?" he was asked.

"Correct," snapped Mr. Dean in reply.

"And you never mentioned to the President any request by Mr. Mitchell that you, Mr. Dean, the person of little clout, call the Attorney General, Dick Kleindienst, did you?"

"I don't believe I did, no," Mr. Dean answered.

Mr. Dean had also testified Monday that Mr. Mitchell considered the grand jury a "runaway grand jury."

"The words 'runaway grand jury' were your words to the

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President, weren't they?" he was asked, and once again he replied, "That's correct."

Mr. Mitchell, the former Attorney General, and Mr. Stans, former Secretary of Commerce, are charged with perjury, conspiracy, and obstruction of justice for allegedly attempting to impede a Securities and Exchange Commission investigation of Robert L. Vesco in return for a secret \$200,000 cash contribution that Mr. Vesco, a financier, made to the President's re-election campaign in 1972.

Mr. Dean was named as a co-conspirator in the case. He was not indicted in this case. Mr. Vesco, who was indicted, has fled the country rather than face trial.

Mr. Fleming was attempting to draw for the jury the inference that if Mr. Mitchell had really tried to get Mr. Kleindienst to interfere in grand jury deliberations, this was surely a fact that Mr. Dean would have brought to the attention of the President.

"Mr. Dean, wasn't this a period of your life when you were telling the President all the truth?" the defense attorney asked.

"Yes indeed," Mr. Dean replied with a smile.

"But you saw no need to tell the President that John Mitchell had asked you to call your friend and the President's Attorney General, to inform him about what was going on in New York?"

Witness Is Firm

And, still again, with a smile, Mr. Dean replied, "That's correct."

"On your oath?"

"That's correct."

Throughout a day of heavy bombardment under cross-examination first from Mr. Fleming, and then Walter Bonner, Mr. Stans' chief attorney, the witness held firmly to his basic story: That Mr. Mitchell had on 19 occasions called him at his White House office about the S.E.C. investigation of Mr. Ves-

co's affairs, and that Mr. Mitchell tried to get the S.E.C. to delay issuing some subpoenas in the case until after the 1972 Presidential election; and that Mr. Stans, then a leader of the Nixon fund-raising drive, had worried that word of the \$200,000 contribution would become public before Election Day.

Mr. Dean, himself a lawyer, used such tactics as making the defense attorneys repeat their questions, and thereby slowing down the rhythm of their assaults. He also smiled through some of the toughest questioning of this 25-day-old trial.

The defense, of course, had its legal ploys, for although it introduced the tapes into the case, as soon as they were introduced, the defense moved for a mistrial on the ground that anything relating to the Watergate case had been discussed before this jury. Judge Lee P. Gagliardi, who is presiding denied the motion.

Move to Discredit Dean

In a further effort to discredit Mr. Dean, Mr. Fleming had Mr. Dean tell the jury that he had been disbarred from practicing law in Virginia and suspended in the District of Columbia.

"Am I correct that you approached various prosecutors and asked for immunity from prosecution in return for your testimony?" he was asked.

"No, sir," answered Mr. Dean.

"Did your lawyer do it?"

"Yes, sir," was the answer.

"You have taken the Fifth Amendment [against self-incrimination] before another grand jury?" he was asked.

"Subsequent to my appearance here, yes," he answered.

Mr. Fleming brought out, that Mr. Dean pleaded guilty on Oct. 19, 1973, to a conspiracy charge in the Watergate case involving the break-in

at the Democratic party national headquarters, a plea that embraced such diverse charges as suborning perjurious testimony, and requesting that cash be raised to make covert payments to those involved in the break-in on June 17, 1972.

Mr. Dean appeared relaxed and unruffled when answering questions on these matters.

Asked About 'Fix' Attempt

Mr. Dean, like every Government witness, was asked if Mr. Mitchell had tried to get him to "fix" the Vesco case, and like all the others he replied, "no." When he was asked later about Mr. Stans, he replied, "What do you mean by fix?" and then he said "no," that Mr. Stans was only worried about "one paragraph" in the S.E.C. complaint against Mr. Vesco.

That paragraph contained the information about the \$200,000 campaign contribution, and it was dropped from the official complaint. The Government contends that the paragraph was dropped because of pressure brought on the S.E.C. by Mr.

Mitchell and Mr. Stans..

Second Transcript Used

Mr. Bonner, in his cross-examination, made use of the partial transcript of a Feb. 28, 1973, tape of Mr. Dean talking to the President.

He attempted to show, among other things, that Mr. Dean had believed from the beginning that Mr. Vesco's contribution to the Nixon campaign was legal. The money was actually turned over on April 10, 1972, three days after a law requiring that such contributions be made public went into effect.

The defense's contention—the contribution was not made public—was that even though the cash was turned over on April 10, the fact that the contribution was to be made by Mr. Vesco was established before April 7, and therefore it did not, under the old law, have to be reported.

Mr. Bonner, using the information on the Feb. 28 tape, was able to ask Mr. Dean if on that date there was no doubt in his mind that Mr. Vesco had agreed to make the contribution before April 10, 1972, and, therefore, in essence had made the contribution before the new law went into effect.

"That is correct," Mr. Dean answered.

Quotes From Tape

Then Mr. Bonner quoted Mr. Dean directly from the tape, and asked if Mr. Dean remembered saying this: "Stans would like to get his side of the story out. He is not in any serious problem ultimately. It could be rough and tumble, but Maury is ready to take it."

"Yes I do," Mr. Dean said.

"Was that the truth, Mr. Dean," he was asked.

"To the best of my knowledge, it was," the witness answered.

The discussion between Mr. Dean and the President on Feb. 28 took place, according to the tape, because the President had read in the newspapers that morning that his youngest brother, Edward Nixon, was involved with Mr. Vesco.

Mr. Dean testified that he had discussed with the President Mr. Vesco's involvement with Edward Nixon, but not Mr. Vesco's involvement with Mr. Stans.

"Let me ask you this, did you make a comment to the President that it was 'sheer sandbagging of your brother,'" Mr. Bonner asked.

"Yes," replied Mr. Dean.

"The sandbagging referred to Robert Vesco and his crowd and not to Mitchell and Stans?"

"That's correct," Mr. Dean said.

Mr. Dean concluded his day on the stand under redirect examination by John R. Wing, the chief prosecutor, who sought to bolster his earlier testimony.

Mr. Dean will be on the witness stand today for re-cross-examination by the defense.

Once again yesterday the courtroom was jammed with

spectators, many of whom had once again lined up early in the morning to see Mr. Dean.

On Monday, so many seats were taken up by friends and relatives of the judge and lawyers in the case and other persons with influence in the court building that only 28 of the

general public was allowed in. Yesterday the situation was improved somewhat: All the friends and relatives of the influential were seated first, but several rows of press seats were taken away from the press and turned over to the general public.