

cuted if he didn't accept our offer to plead guilty to one count of conspiracy. Dean was too deeply involved, too culpable, too big a fish, to get a "free ride"—total immunity from prosecution—even in exchange for valuable testimony against his superiors.

Archie Cox was particularly firm in his personal determination that Dean be prosecuted no matter what. Dean became an *idée fixe* for Cox. True, as a witness Dean would cement otherwise weak cases against Haldeman and Ehrlichman. But Cox preferred, if forced to choose, to take the relatively sure shot at Dean rather than the long shot against Dean's superiors. When the Saturday Night Massacre loomed close, it might have been propitious for Cox to make a deal with Dean and secure Dean's testimony against President Nixon as another weapon to hold the President off. Even then Cox's determination did not waver. With all the uncertainties of Watergate that swirled around him—the weakness of the evidence against Nixon's top aides without Dean's testimony, the possibility of Presidential culpability, the problems of obtaining White House evidence and of dealing with "national security"—Cox saw Dean's guilt as the one enduring constant. During a particularly difficult period Archie remarked to us, "If everything else goes down the drain the one thing I can cling to is Dean's venality."

Moral balancing aside, the realpolitik of the situation was that Dean would not be an effective witness at trial if he got a free ride. His credibility would be substantially diminished by his making a deal with the prosecutors to implicate others only if the prosecutors completely forgave his own deep involvement. The evident effect of Dean's prison sentence, later, on the jurors at the Watergate cover-up trial confirmed our tactical judgment. As a man who was already serving a long jail term for doing what he testified he had been instructed to do by Haldeman and Ehrlichman, Dean made a measurably greater impression than if he had never been charged or punished for his acts.

Our decision to prosecute Dean if he did not plead guilty, coupled with the necessity to use him as a prosecution witness against his White House chiefs, left us only two strategic alternatives. We could indict Dean first, try to convict him, and then use him as a witness against the others; or we could indict Dean simultaneously with (but separately from) the other participants in the cover-up, postpone

Stonewall, April 19, 1977