

Immunity for Dean, Magruder Delayed

5/31/73

By Lawrence Meyer
Washington Post Staff Writer

Chief U.S. District Judge John J. Sirica ordered yesterday a 20-day delay in granting immunity from prosecution sought by the Senate select Watergate committee for former White House counsel John W. Dean III and former Nixon campaign manager Jeb Stuart Magruder.

Sirica's order in effect would prevent Magruder's testimony from being heard by the committee before June 8 with the dates controlled by the time the Justice Department and Dean's firm being heard before June 12, made the requests for the delays.

Sirica acted after the Justice Department, exercising its authority under the law, asked for an additional 20-day delay in granting immunity to Dean and Magruder in return for their testimony before the Senate select committee.

A Justice Department spokesman said the delay was requested by Assistant Attorney General Henry E. Petersen after discussing the matter with Special Watergate Prosecutor Arch-

bald Cox, who asked for a delay to familiarize himself with the case.

In addition, Sirica has asked both the Justice Department and the Senate committee to file memoranda with him on the question of whether he must grant the requested immunity at the end of the 20-day periods or whether he has discretion to deny it.

The question of immunity for Dean, and to a lesser extent for Magruder, has been a source of contention between the committee and the Justice Department for several weeks. Both men are being investigated by the federal Watergate grand jury.

If Dean and Magruder were granted immunity in return for their testimony, nothing said by them while testifying before the committee could be used by the prosecution directly or indirectly in subsequent court proceedings against them.

The legislation covering congressional grants of immunity to witnesses gave the Justice Department the power to delay the grant for a total of 30 days in order to permit prosecutors to search their files for evidence

against the witness and to present testimony concerning the witness before the witness testified under immunity, according to an informed source.

In this way, the source said, prosecutors may demonstrate that the evidence was obtained before the witness testified. Otherwise, the prosecutors are faced with the burden of proving that the evidence was obtained independent of the witness's testimony.

The Senate committee, the source said, will argue that the law covering immunity leaves no discretion with the judge and that when the 20-day extension expires, he must grant immunity to Dean and Magruder. The Justice Department has not revealed what its position will be.

Magruder attended meetings with Dean and former Attorney General John N. Mitchell at which the bug-ging of the Democratic National Committee's Watergate headquarters allegedly was discussed. In addition, the Senate committee and federal prosecutors have been told that Magruder committed pre-jury in testi-

mony during the Watergate trial.

Dean is said by associates to have evidence that he believes forms a circumstantial case implicating President Nixon in the Watergate cover-up. Dean also is said to be prepared to give testimony criminally implicating former top White House aides John D. Ehrlichman and H. R. (Bob) Haldeman.

In a related matter, Sen. Lowell P. Weicker Jr. (R-Conn.), a member of the Senate Watergate committee, told CBS News yesterday that he does not believe that the committee should call Mr. Nixon to testify.

Weicker said, however, that he would like to ask Mr. Nixon "who is advising him on how this matter has been handled. Why we have to go through these steps inch by inch, rather than he (Mr. Nixon) just going ahead, standing forth, letting us know those facts which he knows and quite frankly letting us know those facts which he has no knowledge about."

Asked what advice he would give Mr. Nixon, Weicker replied, "He should have given the May 22 speech on April 30. He

should have given the April 30 speech on Aug. 29. That literally is what we are confronted with here. It is a reaction, a constant reaction to what the Senate committee is doing, to what the grand jury is doing, rather than an action on the part of the President. Now that's basically where the disagreement comes."

(Aug. 29, 1972, was the date Mr. Nixon announced that an investigation he said had been conducted by Dean showed that no one then employed in the White House had been involved in the Watergate break-in and bugging. On April 30, Mr. Nixon accepted responsibility for the Watergate affair but denied having prior knowledge of it. On May 22, Mr. Nixon said that he had ordered a narrow investigation out of concern for national security matters.)

In another development, two aides to special Watergate Prosecutor Cox—Philip Heymann and James F. Neal—spent the day with the Watergate prosecution team at the U.S. District Court house here. The two aides to Cox declined to discuss the case with reporters during brief breaks during the day.