

Dean Saves His Story for Senate Panel

By George Lardner Jr.

Washington Post Staff Writer

Former White House counsel John W. Dean III refused to testify before a federal grand jury yesterday and saved his story for the Senate Watergate committee where he was promised immunity from prosecution.

Denied immunity by federal prosecutors who apparently still hope to indict him on the basis of other evidence, Dean spent only 15 minutes with the grand jury, reportedly invoking his Fifth Amendment rights against self-incrimination.

He is expected to testify before the Senate Watergate committee at televised hearings next week.

U.S. District Judge John J. Sirica set the stage for both developments with a pair of orders yesterday morning.

The judge granted both Dean and former Nixon campaign deputy Jeb Stuart Magruder immunity for their congressional testimony in a ruling that flatly rejected special Watergate prosecutor Archibald Cox's request for a blackout of radio and television coverage of their appearances.

Sirica said he had no choice but to grant the Senate committee's requests for immunity for the two men without any strings attached.

At the same time, Sirica refused to quash a hurried subpoena for Dean's appearance before the Watergate

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grand jury and ordered him there over his protests.

The ousted White House counsel and his lawyer, Charles Shaffer, had no comment on the brief session. But Shaffer had said in court Monday that his client would invoke the Fifth Amendment if he were forced to appear before the grand jury without immunity.

Local Watergate prosecutors Earl J. Silbert, Seymour Glanzer and Donald E. Campbell had urged Dean in a May 22 letter to testify in return for a promise to limit his prosecution to a one-count indictment charging him with conspiracy to obstruct justice.

Magruder has already testified before the grand jury without immunity, reportedly on the basis of a similar understanding.

The 34-year-old Dean and his lawyers, however, have been holding out for flat immunity. What Dean tells the Senate committee will not necessarily protect him from a grand jury indictment based on other evidence, but it could make his prosecution difficult to sustain against defense claims that the "other evidence" had been uncovered, and thus tainted, by Dean's revelations.

Cox's office had no comment on whether Dean's grand jury appearance yesterday was prompted by a desire to avoid any charges of taint stemming from his congressional testimony.

In rejecting Cox's plea for restricted news coverage, Judge Sirica said that "the

court completely lacks any power of intervention."

He said all the precedents involving fair trials and prejudicial publicity centered on pending indictments and actual defendants whose rights were in jeopardy.

"However much the Court may sympathize with the special prosecutor's wish to avoid serious potential dangers to his mission, it cannot act on suppositions," Sirica said. "The matter is simply not ripe for judicial action."

In a statement issued later in the day, Cox said he regretted the order, but announced that he would not appeal it.

"Both sides have now been fairly heard," Cox said. "... To press the legal argument further would risk unduly delaying proceedings and divert attention from our essential task."

Cox said there was still "ample room for cooperation" between his office and the Senate Watergate committee and said he trusted the committee shared that feeling.

The special prosecutor indicated that he would probably still be calling on Chairman Sam J. Ervin Jr. (D-N.C.) or Chief Committee Counsel Samuel Dash "from time to time" to seek "adjustments in its schedule of hearings or other arrangements that might seem necessary in order to minimize any possible danger to holding fair trials."

Sworn in on May 25 under an independent charter granted by Attorney General Elliot L. Richardson, Cox initially asked Ervin to postpone the Senate hearings for three months.

Turned down on that score, Cox, a former solicitor general, then focused on restricted news coverage of Dean's and Magruder's testimony.

Protesting that their "dramatic, broadcast confessions" on nationwide television could make it impossible to secure a fair-minded jury, Cox claimed that the result might be "complete amnesty" not only for Dean and Magruder but also for "all those who acted in concert with them."

Judge Sirica said he remained powerless to act despite Cox's assurances that indictments are sure to be forthcoming and "that Mr. Magruder and Mr. Dean would very probably be named as defendants in those indictments."

"The fact remains," Sirica emphasized, "that there are no indictments, no defendants and no trials."

Magruder, who may testify before the Senate Watergate committee later this week, has reportedly told prosecutors that Dean and former Attorney General John N. Mitchell approved and helped plan last year's bugging of Democratic national headquarters. He has also been reported as saying that Mitchell and Dean subsequently arranged to buy the silence of the seven convicted Watergate conspirators.

Dean is expected to be called as a witness when Magruder is finished. The Washington Post reported earlier this month that the former White House counsel had told both Senate investigators and federal prosecutors that he discussed as-

pects of the Watergate cover-up with President Nixon or in Mr. Nixon's presence approximately 35 times between January and April of this year.

In seeking to limit the impact of the two men's testimony, Cox had cited a string of court rulings overturning convictions on the grounds of prejudicial publicity, from Dr. Sam Sheppard to Billie Sol Estes to a collector of internal revenue in Massachusetts named Denis W. Delaney.

But none of these, Sirica held, offered a precedent for what Cox wanted.

"Where a court has indictments or trial proceedings pending before it," Sirica said in an 18-page opinion, "it can draw on a well-stocked arsenal of measures designed to preserve the integrity of the proceedings and the rights of individuals."

Among these, he said, are changing the venue of a case to another jurisdiction, granting a continuance, restricting extrajudicial statements, and tightly controlling courtroom proceedings.

Judge Sirica voiced doubt, however, that he could tell Congress what to do under any circumstances.

"... Even supposing that a court might be able to act in a premature situation such as the instant one," he said, "it is clear that the court could not go beyond administering its own affairs and attempt to regulate proceedings before a coordinate branch of government... On the contrary, decisional law mandates a 'hands-off' policy on the court's part."

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John W. Dean III and his wife leave U.S. District Court after Dean refused to testify before the grand jury.

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