

Issue and Debate

Arguments For and Against Delay

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WASHINGTON, June 4— Archibald Cox, special prosecutor in the Watergate case, presented today a series of arguments for delaying the Senate Watergate hearings.

Senator Sam J. Ervin Jr., chairman of the Senate investigation committee, other members of the committee and their aides rebutted many of these arguments and offered some arguments of their own for continuing the hearings unabated.

Following is a comparison of the basic positions.

Hanper Prosecution

There are three basic reasons, according to Mr. Cox, why a continuation of the hearings now might prevent successful prosecution of some of those guilty of crimes in the Watergate case. They are:

1 The enormous publicity engendered by the gavel-to-gavel television broadcasts and intensive press coverage of the hearings could make it impossible to find an impartial jury for Watergate-related prosecutions.

2 A grant of partial immunity of certain witnesses before the committee might prevent them from being convicted later.

3 As a result of the hearing the defendants would have an opportunity to see the evidence against them and fabricate explanations of their actions.

Senator Ervin, Democrat of North Carolina, and his colleagues make the general argument that it is more important to have a full disclosure of facts than to prosecute the culpable persons. Shortly before the beginning of the Senate hearings, Mr. Ervin said it is more important for the American people to find out the truth about the Watergate scandal than to see the guilty go to jail. The committee members also answer Mr. Cox's three points with the following arguments:

1. There has already been considerable publicity. Merely postponing the hearings would not stop leaks of information and further publicity.

2. Grants of immunity from prosecution by the Senate committee means only that the prosecution cannot use the statements made by defendants before the committee against the defendants at their trials. Evidence gathered prior to the time a witness appeared before the committee or gathered elsewhere than in the committee hearings can still be used against defendants. By now, Senator Ervin argues, the prosecutors must have developed enough evidence against the principals so that they do not need to use the Senate testimony.

3. If those accused in the Watergate scandal plan to fabricate stories, they have had plenty of time already to do so, committee sources argue. They note, for example, that two key former White House aides, John D. Ehrlichman and H. R. Halde- man, are represented by the same lawyer.

Search for Truth

The committee and the prosecutor agree that bringing out all the facts and restoring public confidence in American institutions are of paramount importance. They disagree on who can better accomplish this goal.

Mr. Cox has three basic arguments on this point:

1. Piecemeal disclosure of information by the committee would prevent a full picture from ever being comprehended by the public.

2. He has been assured access to all documents of the executive branch, while the Senate committee will be refused certain documents because of the Administration's view of the principle of separation of powers.

3. He is not a traditional prosecutor. Rather, the guidelines under which he accepted the post of special prosecutor state specifically that he may "from time to time make public such statements or reports as he deems appropriate."

Senator Ervin and committee staff members counter these arguments with arguments of their own:

1. Piecemeal disclosure is

better than no disclosure at all. In a court case, the only facts that are brought out are those that relate directly to a specific charge and a specific defendant. Many of the actions involved in what has become known as the Watergate affair may not be illegal, only unethical, immoral or unwise, and they would never come to light in a court proceeding. The committee, on the other hand, is not bound by rules of evidence and can take a broad look at the entire scandal.

2. Mr. Cox may have been assured access to all executive branch documents, but just today the White House announced that it would not let him see President Nixon's logs of conversations with John W. Dean 3d, the former Presidential counsel.

3. In the trial of the seven Watergate conspirators, the judge prohibited any comments outside the courtroom by the prosecutors or the defendants. A judge in a trial of more prominent persons would almost certainly apply the same stricture, thus prohibiting the kind of public report that Mr. Cox promises.

Quick Disclosure

Senator Ervin's basic argument for wanting to continue the hearings without delay is that a postponement would prevent release of information indefinitely.

Senator Ervin says that it would take "five or six or seven months" for indictments to be returned and trials to be completed. Some committee staff members are convinced that it will take even longer—perhaps two years or more—while an interminable number of motions are argued in the courts.

Senator Ervin argues that the Government "has come to a virtual standstill" because of preoccupation with Watergate and that, as he said over the weekend, "the American people are entitled to find out what actually happened without having to wait till justice travels on leaded feet."