

COX SEEKS SHIELD ON IMMUNITY DATA

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Wants Testimony by Dean and Magruder Taken in Closed Session

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WASHINGTON, June 6 — Archibald Cox, the special Watergate prosecutor, conceded today that there was no legal way to prevent John W. Dean 3d and Jeb Stuart Magruder from testifying with immunity before the Senate Watergate committee next week.

But Mr. Cox, in a motion submitted to Judge John J. Sirica, chief judge of the United States District Court, urged that the court order the potentially explosive testimony from Mr. Dean, the former White House counsel, and Mr. Magruder, the committee aide, to be given in closed session or at least without live radio and television coverage.

Judge Schedules Hearing

Judge Sirica has scheduled a hearing for Friday to determine whether the two key witnesses—who reportedly are prepared to testify about any knowledge and involvement of President Nixon and other higher-ups in the cover-up of the Watergate scandal—had legally satisfied all the conditions needed for Congressional immunity.

In a memorandum submitted to the court, Mr. Cox acknowledged that the district court had no legal right to deny any Congressional grants of immunity. The Justice Department had delayed those grants, made last month to Mr. Dean and Mr. Magruder, for 30 days—the maximum permitted under the law—pending a court test.

"We believe the express conditions [of the law] have been satisfied," Mr. Cox said. Therefore, he added, he deems "it inappropriate to raise technical obstacles to the select committee's further conduct of the hearings."

Judge's 'Power' Cited

The 30-day period for Mr. Magruder will run out Friday and Mr. Dean's 30 days will be up Tuesday. Both witnesses are now assured of being heard by the Senators next week.

While conceding this, Mr. Cox said that Judge Sirica had the "power" to condition any order granting immunity to the Senate witnesses. He suggested that the most appropriate condition "would be one requiring the testimony to be taken in executive session without subsequent publication."

"Bearing in mind the decision of the select Senate committee to push forward with public hearings," Mr. Cox said, in a reference to the committee's refusal yesterday to delay the hearings until the Federal prosecutors have completed their inquiry, "the most appropriate condition would seem to be the exclusion, during the giving of compelled, self-incriminatory testimony, of live or recorded radio, television and other coverage not permitted at a criminal trial."

No Response by Panel

Such a decision would still permit newspapers, television and radio newsmen to attend the hearings, and report about them later.

There was no immediate response from the Senate committee, which is headed by Senator Sam J. Ervin Jr., Democrat of North Carolina.

In the last few days the committee has repeatedly rebuffed Mr. Cox after a series of meetings and public statements calling for the Senators to halt their inquiry until the Federal investigation is completed.

Mr. Cox repeatedly referred to his concern about the Senate inquiry in his memorandum to Judge Sirica, saying at one point:

"The special prosecutor is of the opinion that the continued conduct of public and televised Senate hearings creates very serious danger" of both "impeding investigation of the Watergate affair" and "of widespread pretrial publicity which might prevent bringing to justice those guilty of serious offenses in high Government offices."

Allegations on Testimony

The Federal prosecutors announced last month that they were 60 to 90 days away from completing their investigation and issuing indictments against a number of former White House and Republican campaign aides.

The prosecutors have refused to grant Mr. Dean immunity, a refusal that has led to a series of published allegations from the former White House counsel about the kind of information he would provide—if immunity was granted.

On Sunday, for example, both The New York Times and The Washington Post published dispatches noting that Mr. Dean had told investigators that he met 35 to 40 times with President Nixon between late January and early April of this year. Some of those meetings, Mr. Dean reportedly has said, involved discussions of the Watergate cover-up.