

SENATORS READY TO GRANT DEAN IMMUNITY AT INQUIRY THAT WILL BEGIN ON MAY 17

SEEK COURT ORDER

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Testimony of Former Counsel Could Not Be Used Against Him

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WASHINGTON, May 8 — The Senate Watergate committee announced today that it would begin public hearings on May 17 and would move to compel testimony by John W. Dean 3d, the deposed White House counsel, by granting him immunity from prosecution.

The projected hearings before the seven-member panel, open to coverage by television cameras, would provide the first public testimony under oath of the Watergate scandal since the Federal court trial of two conspirators last January.

The committee is expected to concentrate at its initial sessions on the actual wiretapping of telephones in the headquar-



The New York Times

Senator Sam J. Ervin Jr. talking to reporters.

ters of the Democratic National Committee at the Watergate of-

fice complex last year, and on the conspiracy surrounding that activity.

Meanwhile, the White House said President Nixon was no longer advising prosecutors in the Watergate case not to grant immunity to present or former members of the Administration.

Drastic Change

This is a change from the President's statement of April 17, when he said that "that 'no individual holding, in the past or at present, a position of importance in the Administration should be given immunity from prosecution.'"

Mr. Dean, whose resignation was forced by the President on April 30, is reportedly prepared to say there was a White House cover-up of the scandal and to impute knowledge of the effort to Mr. Nixon.

The former White House counsel is understood to have bargained with the Government prosecutors conducting a grand jury investigation of the case for immunity from prosecution in exchange for his testimony.

But the Government attorneys are said to believe they have sufficient evidence from other sources to prosecute without Mr. Dean's assistance, and the one-time Presidential counsel has not yet gone before the grand jury.

The Senate committee decided today to ask the United States District Court here for an order under which Mr. Dean could testify without his statements to the committee being used to prosecute him in the courts.

The Senate can grant immu-

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ity under the Organized Crime Control Act of 1970. Congressional sources and legal experts gave the following explanation of the procedure and its possible significance.

The committee, with approval of two-thirds of its members, must now give Attorney General Richard G. Kleindienst

10 days' notice of its intention to ask the Federal court for an immunity order.

The Attorney General can demand an additional 20 days to consider the Senate move. While he presumably can comment on the request, it appears that the judge is required to grant immunity if the committee continues to seek it.

The Watergate panel, under Senator Sam J. Ervin Jr., of North Carolina, intends to ask Mr. Kleindienst to waive the 10-day notice in Mr. Dean's case. The Justice Department would not comment today on its intentions.

Mr. Kleindienst has waived the 10-day notice at least once before in the Watergate investigation and Chief Judge John J. Sirica signed an order granting immunity to E. Howard Hunt Jr., a convicted conspirator.

The Senate committee served Mr. Dean today with a subpoena under which he is scheduled to undergo interrogation privately later this week. The preliminary session would be conducted by the panel's staff.

If the former White House counsel invokes his Fifth Amendment right to avoid self-incrimination at this meeting, and if the answers he thus refuses to give are considered important, the committee could continue with the immunity process.

Could Force Testimony

Assuming the Attorney General has waived the provision that could delay an immunity grant as much as 30 days, and assuming Judge Sirica has signed an order, the committee could then force Mr. Dean to talk at its public hearings.

There has been widespread speculation that Mr. Dean is among those facing indictment by the grand jury. Senate immunity would not necessarily block his prosecution.

The Government could be required to show in court that its case relied neither on Mr. Dean's Senate testimony nor on any evidence developed from leads he had provided.

But several legal authorities said that this point was generally not difficult to establish, especially when the prosecutors were on notice that it might be necessary for them to do so.

The Government could cite its grand jury minutes and other investigatory documents available prior to Mr. Dean's

Senate appearance in an effort to convince the courts that its case had not profited from his testimony.

The 1970 statute was proposed by the Nixon Administration to permit, as the President put it in a 1969 message to Congress, the gathering of evidence "to strike at the leader-

ship of organized crime and not just the rank and file."

The new law made it possible for prosecutors to avoid granting witnesses an "immunity bath," in which they could not be charged with a crime they had testified about even if there was independent evidence to implicate them.

Some sources on the Senate committee have indicated that if the grand jury hands up indictments in the Watergate case, it may be necessary to avoid summoning those indicted as witnesses at the forthcoming hearings.

But it was generally agreed today that, pending such an event, the hearings would go ahead. The committee's vice chairman, Senator Howard H. Baker Jr., of Republican of Tennessee, promised that "significant" witnesses would be called at the outset.

'Too Important' to Wait

Senator Ervin was quoted by a spokesman as saying today that he believed the committee's investigation was "too important to the American system to be held back waiting on the courts to act."

Meanwhile, the Senate Judiciary Committee is scheduled to open hearings tomorrow on the nomination of Defense Secretary Elliot L. Richardson to replace Mr. Kleindienst at Attorney General, and the appointment of a special Watergate prosecutor will be an issue.

Mr. Richardson said yesterday that he would appoint such a prosecutor, but added that the official would still report to him. A number of Senators are concerned over the degree of independence the prosecutor will have.

Several Senators, including Mike Mansfield of Montana, the majority leader, and Robert C. Byrd of West Virginia, the Senate whip, have suggested holding up confirmation until the prosecutor is named and the Senate is persuaded of his independence.

Senator John G. Tower of Texas, chairman of the Republican Policy Committee, said most members of the committee had agreed today that the prosecutor should receive "blanket authority" to act in the Watergate investigation.

Senator Tower said he understood that Mr. Richardson was considering "people who do not have a partisan label" for the job, but he declined to identify the prospects.

It was also disclosed today in Federal court that accountants for President Nixon's political organization had written at least 12 checks to themselves

and had covered the cash to unidentified parties.

Details of the transactions are expected to be disclosed later this week, when pretrial depositions by the two accountants, George F. Lynch Jr., both of Bethesda, Md., are made public.

In another development, a spokesman for the Center on Corporate Responsibility urged that a special prosecutor in the Watergate case should go beyond the break-in itself and investigate other illicit acts during the campaign.