

Cox Urges Delay In Hill Hearings; Ervin Says No

Prosecutor Lists His Objections

By William Claiborne
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Special prosecutor Archibald Cox urged the Senate yesterday to suspend for three months its nationally televised Watergate hearings, warning that all major guilty parties could go unpunished as a result of the publicity.

Sen. Sam J. Ervin Jr., chairman of the Senate Select Committee on Presidential Campaign Activities, quickly rejected the request. Three other committee members supported him. The hearings are scheduled to resume at 10 a.m. today.

"I do not accept the suggestion of the prosecution that the Senate investigation will impede the search for truth," Ervin said.

In support of Ervin's rejection of Cox's request, Watergate committee member Sen. Herman E. Talmadge (D-Ga.) said:

"Mr. Cox, an executive branch employee of the government of about seven days duration, has been presumptuous enough to advise the legislative branch to stop its investigation. . . . It seems to me that Mr. Cox would be well advised to carry out his responsibilities without advising the Senate how to carry out theirs."

Ervin said if he acceded to Cox's request and indictments were subsequently returned, the Senate committee would be impelled to agree to further delays of six months or more while trials were under way.

The government has had an opportunity to deal with

the Watergate affair for nearly a year, Ervin said. "The most important problem pending before this country at this present moment is for the people to learn the truth," he added.

The first witness at today's hearing, which will be televised live by NBC, is to be Sally Harmony, a former secretary to convicted Watergate conspirator G. Gordon Liddy. Miss Harmony typed summaries of illegal wiretaps made at Democratic national headquarters at the Watergate.

In a letter to Ervin and the other six members of the Senate Watergate committee, Cox said that the

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hearings pose a "grave danger that the full facts about the Watergate case and related matters will never come to light . . ."

"They make it impossible to get at the truth from bottom to top," said Cox, a Harvard law professor and solicitor general in the Kennedy administration.

In a press conference at the Justice Department, Cox spelled out four reasons why he thinks the public hearings—which have been in recess for 11 days—will jeopardize the prosecution:

- Anyone disposed to fabricate explanations will be aided by premature disclosure of testimony by other witnesses.

- Pre-trial publicity and the attendant problems of obtaining successful prosecution may relieve the pressure on some witnesses to give truthful testimony.

- Witnesses torn between their consciences and their loyalties to superiors will be less likely to make disclosures in front of television

cameras than privately to prosecutors.

- The Senate committee lacks some powers held by the prosecution, most notably the promised access to all documents and files in the executive branch.

Moreover, Cox said, prosecution of a Senate witness

may be impossible if he testifies under immunity before the prosecutor can develop a record proving that the case was developed without leads from the immune testimony.

"Public hearings prior to the further development of the investigation will increase the risk that major guilty parties will go unpunished. Quite possibly, all would go free," said Cox.

When asked whether he had considered an attempt to legally enjoin the committee from continuing the public probe, Cox said, "I'm not looking for a fight with the committee. I haven't looked into it . . . (but) I don't rule out the possibility I might look into it."

Attorney General Elliot L. Richardson, in a press conference yesterday afternoon, said he had "sympathy" for the Cox request and observed that the Ervin committee hearings "may already have contributed to the problem of a fair trial" for those eventually charged in the Watergate case.

Cox on Saturday made the same request to Ervin that the hearings be postponed, and, according to committee sources, Ervin gave essentially the same response he made yesterday.

Cox denied yesterday his press conference was intended to bring public pressure to bear on the committee. He said his letter was intended to elaborate on his original arguments to Ervin,

and that if the committee acceded, he would consider it a "vote of confidence" for the prosecution.

Justice Department sources noted, also, that the press conference would provide a record of Cox' efforts to suppress the televised hearings, which possibly would be useful in the event that the prosecution obtained less than spectacular results.

Cox said his request to halt the hearings was difficult to make "because there will be false charges that I am attempting to cover up the truth."

But, he said, he has "pledged to pursue every avenue of investigation, wherever it leads." Before his appointment, Cox noted, the executive branch "had not undertaken an exhaustive investigation with adequate resources."

Cox said his Watergate special prosecution force has expanded its investigation far beyond the break-in at the Democratic National Committee Headquarters.

He said it is investigating Donald Segretti's alleged activities in disrupting Democratic Party functions; the burglary of the office of Daniel Ellsberg's psychiatrist, and the "laundering" of an illegal \$100,000 campaign contribution through Mexico City. Also, Cox said, he directed the FBI to provide "more accurate information than I have now" on the Watergate bugging incident.

A member of Ervin's staff said the committee would discuss Cox' request at a previously scheduled meeting at 9 a.m. today, but that the hearing would begin on time.

Two Republican members of the Watergate committee, Sens. Howard Baker of Tennessee, and Edward J. Gurney of Florida, said they would withhold opinions about Ervin's decision until the executive meeting.

However, Sen. Joseph M. Montoya (D-N.M.), also a member, supported the rejection of Cox' request, saying, "I cannot conceive of Congress becoming a subsidiary for Mr. Cox by bending to his will, well meaning as it may be."

In his statement issued last night, Ervin said that the committee had been ordered by a unanimous vote of the Senate to complete its investigation by next Feb. 28, and that a prolonged postponement now "would, for all practical purposes, put the committee out of business and disable it to comply with the order of the Senate."

Senate Majority Leader Mike Mansfield (D-Mont.) also said the hearings should continue, adding, "All I want is for the facts

to be laid out for the people to form a judgment." Senate Republican Leader Hugh Scott of Pennsylvania also said he would do nothing to interfere with the hearings.