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Authority to Restrict Its Hearing

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## Senate Panel Contends Cox and Courts Have

## VYTIMES JUN 8 MITTEE FILES BRIEF WITH JUDGE

**Opposes Prosecutor's** Bid for Closed Testimony or Curbs on Coverage

By DAVID E. ROSENBAUM

WASHINGTON, June 7 — The Senate Watergate commit-tee contended today that neith-er the Federal courts nor the special prosecutor in the case had the authority to prevent the committee from taking tes-timony from Watergate figures in public and on television. In a legal brief filed with the United States District Court here, the committee declared that any court restrictions on the committee's procedures would "ignore the constitution-al doctrine of separation of powers." Yesterday, Archibald Cox, WASHINGTON, June 7

powers." Yesterday, Archibald Cox, the special Watergate prosecu-tor, acknowledged that he had no way to prevent John W. Dean 3d and Jeb Stuart Ma-gruder from testifying before the committee next week. But Mr. Cox asked Chief Judge John J. Sirica, the chief judge of the court, to require that the potentially explosive testimony of t e two men be given in closed session, or at least without live radio and tel vision coverage.

vision coverage. Judge Sirica has scheduled **a** hearing on the question for

Meaning on the question for tomorrow morning. Mr. Dean, the former White House counsel, and Mr. Magru-der, who was deputy director of President Nixon's re-election of President Nixon's re-election campaign, are expected to give testimony not only about the planning of the Watergate bur-glary and the subsequent cover-up, but also about the roles, if any, played by President Nixon and other top Adminis-tration and campaign officials. Mr. Dean and Mr. Magruder are known to be under con-sideration for indictment in con-nection with the Watergate scandal. Mr. Cox has said that

scandal. Mr. Cox has said that indictments would not be re-

indictments would not be re-turned for two or three months. Last month,the Senate com-mittee voted unanimously to grant the two men immunity from prosecution based on their testimony to the panel. Their attorney had told the commit-tee's staff that, without immu-nity, Mr. Dean and Mr. Mag-ruder would invoke the con-stitutional prohibition against stitutional prohibition against forced self-incrimination and re-

fuse to answer questions. Under the law, the two men could still be prosecuted as long as the evidence against them was gathered before or otherwise independently of

otherwise independently of their Senate testimony Mr. Cox and the Justice De-partment have delayed the im-munity grants for 30 days, the maximum permitted by the law. The committee and Mr. Cox agree that Judge Sirica has no alternative but to sign the im-munity grants when the time limits expire—tomorrow for Mr. Magruder and Tuesday for Mr. Dean. Dean

## Arrogance Charged

Mr. Cox argued, however, tha public, televised hearings would crate so much pretrial publicity that a successful prosecution of the witnesses might be impossible.

Senators on the committee were outraged by Mr. Cox's re-quest. One Senator privately called the request "astonishingl arrogant."

Senator Sam J. Ervin Jr., Democrat of North Carolina, the committee chairman, de-clared, "No other agency of the Government has the power to dictate [to] the Senate com-mittee how it shculd exercise

the constitutional powers of the Senate.

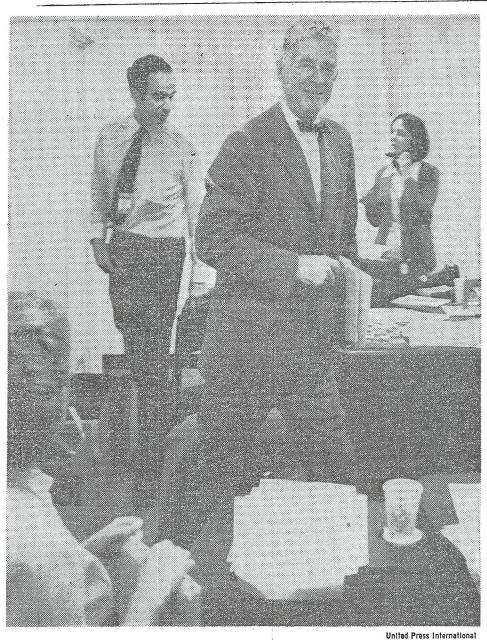
And Senator Herman E. Tal-madge Democrat of Georgia, remarked that "to try to get the judicial branch of the Government to enjoin the legislative from functioning is without precedent in the history of the republic."

republic." In its 15-page legal brief, prepared by a staff lawyer who worked until 4 A.M. today, the committee based its argu-ment principally on the separ-ation of powers doctrine. "We submit that, because we are a committee of a separate branch of Government, the re-sponsibility for determining how we run our business rests with us rather than the special prosecutcr," the committee stated.

stated.

prosecutor, the committee stated. But the brief also addressed Mr. Cox's fear that pretrial publicity could prevent success-ful prosecution. The question of such pub-licity is of concern because, in Mr. Cox's view, it could create difficulties in finding jurors without prejudices about the case, thus delaying the trial or causing convictions to be over-turned on appeal. Moreover, even if unpreju-diced jurors were found, law-yers in the case might feel it necessary in the trial to try to combat published but unproved information. Arguing against Mr. Cox's essertions the committe stated:

Arguing against Mr. Cox's assertions, the committe stated: "It is our view that we would be unpardonably remiss if, in this time of national emergency, use did not next forward to full this time of national emergency, we did not push forward to full revelation of the facts. We also note, in this regard, that further indictments in the Watergate case are not expected for three months and that concentration months and that, consequently, trial must be six months to a year away, thus minimizing the effect of pretrial publicity at this time."



United Press International Archibald Cox, special Watergate prosecutor, walking into his new offices at 1425 K Street Northwest in Washington. He had been working out of the Justice Department.