

# Senate Panel Contends Cox and Courts Have

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**COMMITTEE 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 committee contended today that neither the Federal courts nor the special prosecutor in the case had the authority to prevent the committee from taking testimony 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 constitutional doctrine of separation of powers."

Yesterday, Archibald Cox, the special Watergate prosecutor, acknowledged that he had no way to prevent John W. Dean 3d and Jeb Stuart Magruder 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 the two men be given in closed session, or at least without live radio and television coverage.

Judge Sirica has scheduled a hearing on the question for tomorrow morning.

Mr. Dean, the former White House counsel, and Mr. Magruder, who was deputy director of President Nixon's re-election campaign, are expected to give testimony not only about the planning of the Watergate burglary and the subsequent cover-up, but also about the roles, if any, played by President Nixon and other top Administration and campaign officials.

Mr. Dean and Mr. Magruder are known to be under consideration for indictment in connection with the Watergate scandal. Mr. Cox has said that indictments would not be returned for two or three months.

Last month, the Senate committee voted unanimously to grant the two men immunity from prosecution based on their testimony to the panel. Their attorney had told the committee's staff that, without immunity, Mr. Dean and Mr. Magruder would invoke the constitutional prohibition against forced self-incrimination and refuse 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 their Senate testimony.

Mr. Cox and the Justice Department have delayed the immunity 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 immunity grants when the time limits expire—tomorrow for Mr. Magruder and Tuesday for Mr. Dean.

### Arrogance Charged

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

Senators on the committee were outraged by Mr. Cox's request. One Senator privately called the request "astounding! arrogant."

Senator Sam J. Ervin Jr., Democrat of North Carolina, the committee chairman, declared, "No other agency of the Government has the power to dictate [to] the Senate committee how it should exercise the constitutional powers of the Senate."

And Senator Herman E. Talmadge 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."

In its 15-page legal brief, prepared by a staff lawyer who worked until 4 A.M. today, the committee based its argument principally on the separation of powers doctrine.

"We submit that, because we are a committee of a separate branch of Government, the responsibility for determining how we run our business rests with us rather than the special prosecutor," the committee stated.

But the brief also addressed Mr. Cox's fear that pretrial publicity could prevent successful prosecution.

The question of such publicity 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 overturned on appeal.

Moreover, even if unprejudiced jurors were found, lawyers in the case might feel it necessary in the trial to try to combat published but unproved information.

Arguing against Mr. Cox's assertions, the committee stated: "It is our view that we would be unpardonably remiss if, in 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, consequently, trial must be six months to a year away, thus minimizing the effect of pretrial publicity at this time."

No Authority to Restrict Its Hearing

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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.