

Watergate Suit Delay Suggested

By Donald P. Baker

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Special Watergate prosecutor Archibald Cox suggested yesterday that it may be necessary to postpone hearing the Democratic National Committee's civil action against the Watergate conspirators to insure fairness in forthcoming criminal trials.

In a memorandum filed at U.S. District Court, Cox said a deposition sought by the Democrats from former White House counsel John W. Dean III "might jeopardize the rights of both potential defendants and the public to a fair trial."

Cox said, "There is a strong possibility that the grand jury may, in the near future, return additional indictments against various persons." He said, "The possibility cannot be ignored that further testimony by Mr. Dean and its foreseeable widespread circulation might lead defendants to contend that the court could not empanel an unbiased jury in a subsequent criminal prosecution."

The special prosecutor said his office will make no recommendation on whether Dean should be granted the immunity from prosecution he seeks for providing a deposition in the Democrat's \$6.4 million invasion of privacy suit against James W. McCord and officials of the Committee for the Re-election of the President.

But if Judge Charles R. Richey determines that Dean should be denied immunity, the court "may wish to consider" sealing Dean's deposition so that its contents would not be revealed to persons other than those involved in the case, Cox said.

Cox said Dean's assertion of a Fifth Amendment privilege "has some validity," because "statements made by Mr. Dean in response to questions propounded at the deposition could be used against him in a subsequent criminal proceeding."

The proposed deposition, Cox continued, "involves considerations apart" from Dean's bid for immunity. "There may come a point," Cox said, "particularly after the term of any further indictments, when the court must consider . . . staying the civil proceedings until any criminal trials are completed."

Cox said other alternatives might be to conduct "a closed civil trial" while criminal charges are pending, or to rely on other sources for Dean's testimony, "including the extensive public testimony he has given before the Senate Select Committee on Presidential Campaign Activities."