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Move Against Liddy Delayed by Battle Over His Defense

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A lawyer's quarrel yesterday delayed a House committee's attempt to seek a contempt-of-Congress citation against convicted Watergate conspirator George Gordon Liddy.

Liddy refused on July 20 to be sworn in before a House Armed Services subcommittee. Committee Chairman F. Edward Hebert (D-La.) warned after yesterday's hearing that unless the House cites Liddy for contempt, "Congress won't be able to have investigations anymore."

However, Hebert and Rep. Lucien Nedzi (D-Mich.), chairman of the subcommittee that recommended the contempt citation, gave in to the objections of a group of younger committee members who asked for additional time to study Liddy's legal defense of his refusal to be sworn.

All of those seeking a delay were Republican congressmen. Most also were attorneys who said they had not seen the argument's of Liddy's attorney until moments before the committee convened.

Hebert said the delay, approved on a 23-9 vote, may make it impossible for the House to act on the contempt citation until after it returns from a month-long recess beginning next Friday. But he predicted that the committee would approve the contempt action "probably unanimously" early next week.

The issue is of more consequence to congressional investigating procedures than to Liddy, a close-mouthed 42-year-old former FBI agent who was fired as the finance counsel for the Committee for the Re-election of the President for refusing to answer questions for the FBI last June about the Watergate break-in.

Since then, Liddy has steadfastly refused to cooperate with Watergate prosecutors or a federal grand jury, even though he had been granted immunity from prosecution.

Liddy is now serving an eight-month contempt sentence in the District of Columbia jail on top of his 20-year sentence in the Watergate burglary. The most he could get for contempt of Congress is an additional one-year sentence.

However, the issue is an important one for Congress, which relies on the contempt power to compel reluctant witnesses to testify.

"It's my position that if the position of Mr. Liddy is sustained, we'll never get another witness to testify before Congress," said Rep.

Liddy's lawyer, Peter L. Maroulis, for his client's refusal to take the oath before the committee is that Liddy has the absolute right under the Fifth Amendment to the Constitution to remain completely silent before the subcommittee. Maroulis bases his claim on a long historical review of the Fifth Amendment, which guarantees that a defendant cannot be forced to incriminate himself.

In a legal case, this means that a defendant cannot even be forced to take the stand. But Nedzi, rejecting Maroulis' "novel argument," said that his own review of court cases shows a distinction between a criminal case and a congressional proceeding, where Liddy is a witness instead of a defendant.

Any witness at a congressional hearing may refuse to answer questions on Fifth Amendment grounds once he has been sworn in as a witness. Three witnesses—John Dean III, Egil M. Krogh and David R. Young—have exercised their Fifth Amendment rights in closed-door testimony before Nedzi's subcommittee, which is investigating the Central Intelligence Agency role in the Watergate and Daniel Ellsberg cases.

In his defense of Liddy's unusual conduct, Maroulis said that these Fifth Amendment refusals to testify had been reported in the press and that any such claim by Liddy also would be reported. This would amount to prejudicial publicity and would violate Liddy's rights under the Sixth Amendment, Maroulis contended.

Only two other previous refusals to be sworn in have occurred in the history of Congress. Both involved avowed Communists, Gerhard Eisler in 1947 and Arnold S. Johnson in 1970.

Eisler was convicted and fled to East Germany while his case was under appeal. The case against Johnson was dropped because the FBI did not want to make public transcripts of illegal wiretaps of Johnson's phone conversations.

If the House votes contempt in the Liddy case, the issue is likely to be before the courts for several years. Rep. Richard H. Ichord (D-Mo.), chairman of the House Internal Security Committee, cited one unresolved case where a defendant has fought a criminal contempt case for seven years with a civil suit.

"If I were Mr. Liddy, I wouldn't worry about the activities of this committee and the Congress because