

# AGNEW'S COUNSEL MOVING TO BLOCK U.S. JURY INQUIRY

Vice President Said to Back  
'Head-On' Confrontation on  
Constitutional Immunity

A PLEA BY WEDNESDAY

Extended Litigation Possible  
on Any Deferral of Evidence  
in Baltimore Investigation

By BEN A. FRANKLIN

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WASHINGTON, Sept. 23 — Vice President Agnew has reportedly made a decision to "confront head-on," as a friend has put it, the possibility that he may be indicted by a Federal grand jury in Baltimore for alleged bribery and extortion.

Mr. Agnew's attorneys expect to have further private communication this week with officials of the Justice Department, with whom they have met repeatedly in recent weeks in an effort to avoid the legal and constitutional confrontation to which the Vice President is now reported committed. Sources close to his attorney believe a last-minute compromise with the Federal prosecutors remains a possibility.

### Action Due This Week

By this Wednesday, Mr. Agnew's lawyers will go into the United States District Court here or in Baltimore in the first of a series of legal maneuvers to interpose what one of them called the "constitutional impediments" to a possible indictment.

The formal, public pleading for a court order to stop the presentation of evidence concerning Mr. Agnew to the Baltimore grand jury could lead to months in litigation. During that time, Mr. Agnew's lawyers are certain to seek deferral of any presentation to the grand jury of evidence supporting criminal allegations. The grand jury in Baltimore has so far heard none of the prosecutor's

witnesses against Mr. Agnew.

Mr. Agnew's decision to have his lawyers file formal pleadings for a court order, a strategy in preparation for weeks, was disclosed today by Judah Best, the Vice President's principal defense counsel here. This opens the way for a fresh judicial review of whether the President and the Vice President have constitutional immunity from prosecution.

### Could Affect President

Legal historians have said that there is virtually no precedent in American law on the specific point of a Vice President's vulnerability to criminal investigation and prosecution.

If new precedents were established as a result of an effort by Mr. Agnew to assert a constitutional immunity, lawyers here said that such precedents might also affect the status of President Nixon in his struggle to withhold the Watergate tape

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recordings on the ground of Presidential immunity.

The constitutional argument for Mr. Agnew centers on the language of Article II, Section 4, which says "The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

One legal question his attorneys will raise is whether this language limits the prosecution of sitting Vice Presidents to the constitutional power of impeachment vested solely in the House of Representatives, and thus indirectly bars judicial prosecution.

According to Raoul Berger, a legal historian at Harvard law school and a scholar on impeachment proceedings, Mr. Agnew might well be indicted by a grand jury. Whether he could then be tried in a court would be far from certain.

Mr. Agnew was reported to have spent today in seclusion at his Kenwood, Md., home, in the capital's suburbs.

J. Marsh Thomson, his press

secretary, said that the organization of an Agnew legal defense fund, announced yesterday, was continuing. "We'll have an announcement on that when it is ready," he said, "perhaps in a few days."

There were increasing reports that the Vice President's attorneys would seek to examine under oath members of the staff of George Beall, the United States Attorney for Maryland, and perhaps other employees of the Justice Department here, to determine the source of the unattributed leaks to newsmen that have characterized much of the reporting on the Agnew investigation.

The Vice President has complained bitterly about the leaks in public statements, in private to Government officials here and ever more colorfully in comments to close friends. But the leaks have continued, culminating Friday and yesterday in newspaper and broadcast reports that Mr. Agnew was "plea bargaining" and had offered to resign, if charges against him were dropped or reduced. These reports were angrily denied as being "without foundation".