

NIXON CONSENTS TO A ON PLEA TO AVERT BUT WON'T TESTIFY

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MEETING WITH ERVIN CONSTITUTIONAL CRISIS OR RELEASE DOCUMENTS

ACTS AS 'COURTESY'

But Some Aides Think President May Make an Accommodation

By JAMES M. NAUGHTON

Special to The New York Times

WASHINGTON, July 12 — President Nixon consented today to meet with the chairman of the Senate Watergate committee to discuss the President's refusal to make White House documents available to the Congressional investigators. But a White House spokesman said that Mr. Nixon would not budge from his refusal.

Mr. Nixon agreed to meet with Senator Sam J. Ervin Jr., the chairman, after the Senate committee sent an urgent appeal to the White House for a con-

Texts of Ervin letter and committee resolution, Page 13.

ference that might head off

"the very grave possibility of a fundamental constitutional confrontation" over documents sought by the committee.

Gerald L. Warren, the deputy White House press secretary, insisted nonetheless that the President had acquiesced in the meeting only as a "courtesy" to Senator Ervin, and that Mr. Nixon would neither testify before the committee nor provide it with Presidential papers.

Accommodation Possible

All the same, officials at the

White House suggested that Mr. Nixon, who had asserted and later abandoned rigid positions on the Senate investigation earlier this year, might yet make some form of accommodation with the committee.

The effort to iron out seemingly irreconcilable conflict between the President and the Senate committee exploring Mr. Nixon's possible role in the Watergate case unfolded against a backdrop of testimony that the President had been innocent of any knowledge of the Watergate break-in or the subsequent cover-up until March 21 of this year.

Richard A. Moore, a White House special counsel, appeared before the Senate panel late today to rebut the charge by John W. Dean 3d that Mr. Nixon was enmeshed in the cover-up as long ago as last September.

Mr. Moore appeared moments after the Senate Select Committee on Presidential Campaign Activities had completed the third day of testimony by John N. Mitchell, the former Attorney General. Mr. Mitchell

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The New York Times/George James

Senator Sam J. Ervin Jr. reads the letter he wrote to the President. Others are Senator Howard H. Baker Jr., left, and Rufus I. Edmisten, deputy counsel to the committee.

Dear Mr. President:

I acknowledge receipt of your letter of July 6, addressed to me with a copy to Senator Baker.

The Committee feels that your position as stated in the letter, measured against the Committee's responsibility to ascertain the facts related to the matters set out in Senate Resolution 60, present the very grave possibility of a fundamental constitutional confrontation between the Congress and the Presidency. We wish to avoid that, if possible. Consequently, we request an opportunity for representatives of this Committee and its staff to meet with you and your staff to try to find ways to avoid such a confrontation.

We stand ready to discuss the matter with you at your convenience.

Part of the text of the letter, which ended, "Very truly yours, Sam J. Ervin Jr."

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refused, despite sharp questioning, to depart from his central statement that he had deliberately withheld his own knowledge of the Watergate case from Mr. Nixon.

Subpoena Considered

The conflict between the accounts given last month by Mr. Dean and this afternoon Mr. Moore placed renewed stress on the potential importance of White House papers relating to the Watergate case.

The Senate panel met this morning in private to consider whether to subpoena the documents and thus initiate a formal legal challenge of the President's contention that they were protected by the doctrine of executive privilege. But Senator Howard H. Baker Jr. of Tennessee, the ranking Republican, persuaded the committee to make one more attempt to persuade Mr. Nixon to volunteer the documents.

Neither the White House nor Senator Ervin was certain when the meeting between the President and the committee chairman would take place. Mr. Ervin said that Mr. Nixon had pledged, in a 15-minute lunch hour telephone conversation, to arrange the meeting as soon as he cleared his calendar of some pressing matters. The Senator said that he hoped the meeting would be held next week.

The committee formally asked the President late last month to provide a variety of documents, including several that Mr. Dean had testified he had not been permitted to copy. But the President responded Saturday, in a letter to Senator Ervin, that it was his "constitutional responsibility" to maintain the separation between the executive and legislative branches by refusing the request.

Furthermore, although the committee had not yet formally asked Mr. Nixon to give testimony at the Watergate hearings, Mr. Nixon added that he would refuse even an informal meeting with the panel.

Mr. Ervin talked by telephone with the President at mid-day after dispatching to the White House a letter, approved by the full committee, urging an opportunity to explore "ways to avoid" a confrontation over the documents.

Proposed Rejected

Authoritative officials in the White House said that Mr. Ervin had asked the President to permit the entire panel and its senior lawyers to meet with Mr. Nixon, but that the President immediately rejected the

proposal.

Mr. Ervin then sought, the officials said, to persuade the President to accept a meeting with both Mr. Ervin and M. Baker, the two senior members of the investigating committee. Mr. Nixon ruled that out, too.

According to the White House account, the President then told Mr. Ervin that he was welcome to come alone to meet Mr. Nixon "one and one," with no others present. Mr. Ervin agreed.

The test of wills between the White House and the Senators has been building up ever since the week-long testimony last month by Mr. Dean that the President had been aware of the cover-up since Sept. 15.

Senators Ervin, Baker and Lowell P. Weicker Jr., Republican of Connecticut, declared publicly that the President should make some form of response to the charges, preferably under oath and interrogation.

In his letter to Senator Ervin last week, Mr. Nixon said that he would "address publicly the subjects you are considering" at some point that seemed to him to be "appropriate."

But the letter said, "in the meantime, I consider it my constitutional responsibility to decline to appear personally under any circumstances before your committee or to grant access to Presidential papers."

Ervin Letter Quoted

Senator Ervin announced this afternoon at the hearing that the committee had authorized him to send Mr. Nixon a letter which stated, in part:

"The committee feels that your position, as stated in the letter, measured against the committee's responsibility to ascertain the facts . . . present the very grave possibility of a fundamental constitutional confrontation between the Congress and the Presidency. We wish to avoid that, if possible."

The letter was written by Senator Baker and signed by Senator Ervin.

It added that the committee members were "ready to discuss the matter with you at your convenience," but that "time is of the essence."

The letter was sealed in an envelope and marked "for the eyes of the President only"—a point that drew loud laughter when Senator Ervin pointed it out at the hearing—and it was accompanied by a covering letter advising the President that Senator Ervin would telephone him.

Mr. Ervin also read into the record of the Watergate proceedings the text of a resolution that the committee had adopted unanimously after the telephone conversation.

The resolution declared that the committee believed it was

"entitled to have access to every document in the possession of the White House or any department or agency of the executive branch of the Federal Government, which is relevant to prove or disprove" the issues involved in the inquiry.

Ervin's Viewpoint

The resolution mirrored the arguments raised yesterday by Senator Ervin when he interrogated Mr. Mitchell, who, as Attorney General, was the President's senior adviser on law and constitutional rights.

The Senator said that he took the position that the doctrine of executive privilege—under which matters may be kept confidential—applied neither to political matters, including the 1972 Presidential campaign, nor to "criminal activities." Mr. Mitchell agreed with Senator Ervin's analysis.

The request for a private conference between the President and Senator Ervin also had its genesis in the testimony of the former Attorney General.

Mr. Mitchell told Senator Baker yesterday that one way for the panel to gain access to Mr. Nixon's knowledge of Watergate would be for Mr. Baker and Mr. Ervin to "go down and discuss it with him."

7/13/73 Texts of Ervin Letter to Nixon and Panel Resolution

Special to The New York Times

WASHINGTON, July 12—
Following are the texts of a letter from Senator Sam J. Ervin Jr., chairman of the Senate Watergate Committee, to President Nixon, and of two Watergate committee resolutions on access to Presidential papers:

Ervin's Letter

Dear Mr. President:

I acknowledge receipt of your letter of July 6, addressed to me with a copy to Senator Baker.

The committee feels that your position as stated in the letter, measured against the committee's responsibility to

ascertain the facts related to the matters set out in Senate Resolution 60, presents the very grave possibility of a fundamental constitutional confrontation between the Congress and the Presidency. We wish to avoid that, if possible. Consequently, we request an opportunity for representatives of this committee and its staff to meet with you and your staff to try to find ways to avoid such a confrontation.

We stand ready to discuss the matter with you at your convenience. We would point out that the hearings are ongoing and that time is of the

essence. We trust that this may be done very promptly.

Very Truly Yours,
Sam J. Ervin Jr.
Chairman

Resolutions

[1]

The committee is of the unanimous opinion that the committee is entitled to have access to every document in the possession of the White House or any department or agency of the executive branch of the Federal Government which is relevant to prove or disprove any of the matters the committee is authorized by Senate Resolution 60 to investigate.

[2]

The committee is anxious to avoid any confrontation with the White House in respect to this matter and for this reason authorizes the chairman to meet with the President to ascertain whether there is any reasonable possibility of working out any reconciliation between the position of the committee in this respect and that announced by the President in his letter to the chairman bearing date July 6, 1973, which will enable the committee to gain access to documents necessary to enable it to make the inquiry which it is authorized by Senate Resolution 60 to make.